

CHAPTER 93. STATE CORRECTIONAL INSTITUTIONS AND FACILITIES

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Authority

The provisions of this Chapter 93 issued under section 916 of The Administrative Code of 1929 (71 P. S. § 306), unless otherwise noted.

Source

The provisions of this Chapter 93 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655, unless otherwise noted.

Subchapter A. RIGHTS AND PRIVILEGES

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§ 93.1. General.

Those portions of some Department directives and policy statements which concern the interaction of Department inmates and employees with the community at large are published. The full text of the directives and other policy statements are maintained in all Department facilities.

Authority

The provisions of this § 93.1 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.1 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended January 14, 1972, effective January 1, 1972, 2 Pa.B. 60; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial page (263818).

Notes of Decision

Prisoner alleged bulletin authorizing Department of Correction (DOC) employees to confiscate UCC filing documents mailed to inmate was invalid since DOC failed to comply with Commonwealth Documents Law and Regulatory Review Act (RRA) requirements for adopting regulations; bulletins are not regulations for purposes of Documents Law or RRA and represent agency decisions that are inherently committed to agency's sound discretion that cannot reasonably be subjected to the "normal public participation process." *Bundy v. Beard*, 924 A.2d 723, 727—728 (Pa. Cmwlth. 2007)

§ 93.2. Inmate correspondence.

(a) *Permitted correspondence.* Inmates are permitted to correspond with friends, family members, attorneys, news media, legitimate business contacts and public officials. There may be no limit to the number of correspondents.

(b) *Restrictions.* The following restrictions apply:

(1) Correspondence with inmates of other facilities, former inmates, probationers or victims of the criminal acts of the inmate will not be permitted except upon approval of the facility manager or a designee.

(2) Correspondence containing threatening, obscene or explicit sexual material, or nudity as well as correspondence containing criminal solicitation or furthering a criminal plan or institution misconduct is prohibited.

(3) An inmate shall refrain from writing to persons who have stated in writing that they do not wish to receive mail from the inmate. This will not be interpreted to restrict the right of inmates to correspond with public officials with respect to the official duties of the latter.

(4) Correspondence with prohibited parties through a third party is also prohibited.

(5) Mail addressed to an inmate organization will not be accepted unless the facility manager and Secretary have approved the organization and it is addressed to the staff coordinator of the organization.

(c) *Incoming mail.* Mail sent to a facility will be opened and examined for contraband in the facility's mailroom or designated area except when permitted under paragraph (1).

(1) The Department may permit sealed mail to be opened in the presence of an inmate under the following conditions:

(i) An attorney or authorized representative/designee may hand-deliver a sealed confidential client communication to an inmate if the attorney is unable to communicate through alternative means, if the following conditions are met:

(A) The person making the delivery does so during normal business hours unless granted permission in advance by the Secretary or a designee.

(B) The person making the delivery shall provide valid identification and information sufficient to verify that the person is the inmate's attorney or authorized representative of the attorney.

(C) The person making delivery shall present the documents for inspection for contraband, unsealed and unbound.

(D) Upon inspection, the documents will be sealed and delivered to the inmate where they will be unsealed and searched again for contraband.

(ii) An attorney may obtain a control number from the Department's Office of Chief Counsel if the attorney wishes to have correspondence addressed to an inmate client opened in the presence of the inmate.

(A) An attorney shall submit a written request for a control number to the Office of Chief Counsel. The request must include the attorney's name, address, telephone and facsimile numbers, State attorney identification number and a verification subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) that all mail sent to inmates using the control number will contain only essential, confidential, attorney-client communication and will contain no contraband.

(B) The attorney shall place the control number on each envelope that the attorney wishes to have opened in an inmate's presence. The number is confidential. It shall only be placed on the outside of the envelope so that it can be obliterated before it is delivered to an inmate client.

(C) If a control number does not appear on the envelope, the mail will be treated as regular mail and opened in the mailroom unless the procedures in subparagraph (i) are followed.

(D) The Department may change the control number for any reason upon notice to the attorney who requested it.

(iii) A court may direct delivery of court documents sealed from public disclosure to an inmate by specific order. The court's representative shall deliver the sealed documents and the specific court order to the facility. Under no circumstances will documents filed in a court of public record be delivered sealed to an inmate.

(2) Contraband in the form of money orders, certified checks, cash or other negotiable instruments will be recorded indicating the nature of the receipt, the sender, the amount received and the date. Personal checks, unless certified, will be returned to the sender. The facility is not responsible for cash sent through the mails. Confiscated coins and currency will be deposited in the Inmate General Welfare Fund. Contraband not specifically addressed in this section will be returned to the sender or destroyed.

(d) *Outgoing mail.* Sealed outgoing mail from an inmate will not be examined except as set forth in subsection (e).

(e) *Scrutiny of correspondence.*

(1) The facility manager or a designee may read incoming or outgoing mail, except mail sealed in accordance with subsection (c)(1), when there is reason to believe that it may reveal or discuss illegal or unauthorized activity or for reasons set forth in any Department document that is disseminated to inmates.

(2) The facility manager or a designee may read mail sealed in accordance with subsection (c)(1), only upon the written order of the facility manager with the written approval of the Secretary when there is reason to believe that there is a threat to facility security or criminal activity.

(f) *Rejection of correspondence.* An item of correspondence which appears to violate subsection (b) may be rejected by facility mailroom staff. The inmate and the sender, in cases when the inmate is not the sender, will be notified when the letter is rejected. The letter will be held for at least 7 business days after mailing of the notification to permit reasonable opportunity to protest the decision. If the letter is rejected, it will be returned to the sender.

(g) *Incoming publications.*

(1) A publication review committee consisting of staff designated by and reporting to the facility manager or a designee shall determine whether an inmate may receive a publication.

(2) Publications shall be received directly from a publisher, bookstore, book club, distributor or department store. Newspapers shall be mailed directly from the publisher.

(3) Publications may not be received by an inmate if they:

(i) Contain information regarding the manufacture of explosives, incendiaries, weapons, escape devices, poisons, drugs or intoxicating beverages or other contraband.

(ii) Advocate, assist or are evidence of criminal activity, inmate misconduct, violence, insurrection or guerrilla warfare against the government.

(iii) Threaten the security of a facility.

(iv) Contain nudity, obscene material or explicit sexual materials as defined in subsection (i).

(v) Constitute a bulk mailing specifically intended for the purpose of advertising or selling merchandise.

(4) An inmate under 18 years of age may not receive explicit sexual materials as defined in 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials and performances).

(5) A publication will not be prohibited solely on the basis that the publication is critical of penal institutions in general, of a particular facility, staff member, or official of the Department, or of a correctional or penological practice in this or any other jurisdiction.

(6) An inmate may receive only one copy of any publication unless granted permission by the publication review committee.

(7) Small letter sized pamphlets may be received in regular correspondence.

(8) Covers of hardbound publications may be damaged or removed during inspection in the discretion of mailroom staff.

(h) *Exception.* Correspondence and publications containing nudity, explicit sexual material or obscene material as defined in subsection (i), may be permitted if the material has artistic, educational or medical value. The following considerations will guide the Department in determining whether to permit nudity, explicit sexual material or obscene material:

(1) Is the material in question contained in a publication that regularly features sexually explicit content intended to raise levels of sexual arousal or to provide sexual gratification, or both? If so, the publication will be denied for inmate possession.

(2) Is it likely that the content in question was published or provided with the primary intention to raise levels of sexual arousal or to provide sexual gratification, or both? If so, the publication or content will be denied for inmate possession.

(i) *Definitions.* The following words and terms, when used in this section, have the following meanings:

Explicit sexual material—Any book, photograph, pamphlet, magazine, printed matter, sound recording, explicit and detailed verbal description, narrative account or other material of the following:

(i) Sexual conduct, which means acts of masturbation, homosexuality, sexual intercourse, sexual bestiality or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if the person is a female, breast.

(ii) Sadoomasochistic abuse, which means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(iii) Sexual excitement, which means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

Nudity—The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernible turgid state.

Obscene—Any book, photograph, pamphlet, magazine, printed matter, sound recording, explicit and detailed verbal description, narrative account or other material is considered obscene if one of the following applies:

- (i) An average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest.
- (ii) The subject matter depicts or describes the following in a patently offensive way:
- (A) Ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, anal or oral sodomy and sexual bestiality.
 - (B) Patently offensive representations or descriptions of masturbation or excretory functions.
 - (C) In a sexual context, flagellation or torture upon a nude person or one clad only in undergarments, a mask or bizarre costume or fettered, bound or otherwise physically restrained.
 - (D) Lewd exhibition of the genitals.
- (j) *Construction.* This section is not intended and may not be interpreted to create or confer any rights in addition to those created by the United States Constitution, the Pennsylvania Constitution or Federal or State statutes applicable to the Department.

Authority

The provisions of this § 93.2 amended under sections 1 and 506 of The Administrative Code of 1929 (71 P. S. §§ 51-732 and § 186).

Source

The provisions of this § 93.2 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended January 14, 1972, effective January 1, 1972, 2 Pa.B. 60; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279; amended May 28, 2010, effective May 29, 2010, 40 Pa.B. 2759. Immediately preceding text appears at serial pages (329248) and (310321) to (310323).

Notes of Decisions

Determination

Since the statutory and regulatory provisions prohibit employees from permitting obscene materials, as defined, into any Department facility, the Department and not a judicial tribunal determines whether materials should be prohibited. *Payne v. Department of Corrections*, 813 A.2d 918 (Pa. Cmwlth. 2002).

Cross References

This section cited in 37 Pa. Code § 93.4 (relating to purchase for inmates by family and friends).

§ 93.3. Inmate visiting privileges.

(a) *Approved list of visitors.* A list of approved visitors may contain up to 20 names or more if permitted by the Department. Inmates who can show that they have more than the number of visitors permitted by the Department may be permitted to add additional names to their approved lists. Except for members of an inmate's immediate family, a minor's name may be placed on the approved list only with permission of the minor's parents or guardian. Children under 18 years of age may visit only when accompanied by an adult approved by his parent or legal guardian and need not be placed separately on the official list. A person may not be on more than one inmate's visiting list except in cases when the person is part of the immediate family of more than one inmate, unless special permission

is granted by the facility manager. Changes or additions to the approved list may be made in accordance with established procedures. The name of a visitor may be removed for good cause upon authorization by the facility manager.

(b) *Religious advisor.* Designation by an inmate of a religious advisor as defined in § 93.6 (relating to religious activities) may be made at any time. The designation shall be in addition to the names on the approved list and will not be counted against the total approved by the Department.

(c) *Attorneys.* An inmate may designate attorneys for whom the inmate desires visiting privileges at any time. The designation shall be in addition to the names on the approved list and will not be counted against the total approved by the Department.

(1) The confidentiality of the attorney-client relationship will be honored. Personnel will not be stationed in a manner as to be able to overhear normal conversation.

(2) An attorney who has been designated by an inmate as the inmate's legal advisor may permit persons, such as law students or investigators to visit the inmate to act as the attorney's agents. Each person shall present to the facility at the time of the visit a written statement signed by the attorney on the letterhead of the firm of the attorney identifying each person as the attorney's agent and attesting that the visit is for the purpose of a legal consultation.

(3) Attorneys and their agents are subject to the same rules and regulations as other visitors.

(d) *Former inmates.* A former inmate may visit only with special permission of the facility manager.

(e) *Prerelease inmates.* Inmates in prerelease status may visit other inmates only with the approval of the Secretary or a designee. Application for permission to visit shall be made by both inmates through their respective facility managers.

(g) *Initial visits.* The inmate's first visit after admission should be scheduled following the medical quarantine period and may be held in the presence of a staff caseworker.

(h) *Number, time and place of visits.* Inmates shall be permitted to have visits as often as the situation at the facility will allow.

(1) *Visiting days.* Visits may be permitted every day of the year at the discretion of the facility manager and shall reasonably accommodate family members.

(2) *Visiting hours.* Morning and afternoon visiting hours will be maintained at the discretion of the facility manager. Evening visits may be maintained at the discretion of the facility manager. Visiting hours shall reasonably accommodate family members.

(3) *Length of visits.* Visits should be at least 1 hour in duration. The length of a visit depends on the inmate's program status and available space.

(4) *Frequency of visits.* One visit per inmate per week will be permitted. Additional visits may be permitted.

(5) *Number of visitors at one time.* The number of visitors an inmate may have at any one time may be limited depending upon the available space.

(6) *Place.* Inmates in the general population will be permitted contact visits in a relaxed setting, under official supervision unless otherwise restricted as set forth in the *Department of Corrections Inmate Handbook*, or any Department document that is disseminated to inmates.

(7) *Special visit.* Provisions will be made for the approval of a special visit by persons who may not be on the approved list who have come a substantial distance and of a family visit to a seriously ill or injured inmate. Special visits will be approved only by the facility manager or a designee. Absent this approval, only those persons on the approved visiting list may visit.

(i) *Restriction of visitation privileges.*

(1) If a visit is a threat to the security and order of the facility, the visit may be terminated or disallowed.

(2) Outside visitors are subject to search before and after visiting.

(3) A visitor who cannot produce identification or who falsifies identifying information will not be allowed in the facility.

(4) Visitation may be restricted or suspended or special security precautions imposed for violation of visiting rules or as warranted by the temperament of the inmate involved.

(5) Restriction of visiting privileges will not be used as a disciplinary measure for an unrelated facility rule infraction. However, visiting privileges may be restricted as a result of changes in housing or program status made as a result of unrelated infractions.

(6) Normal visitation will be suspended during a state of emergency.

(j) *Media representatives.* Media representatives will have the same visiting privileges as visitors on an inmate's approved list of visitors as described in Department policy concerning inmate visitation. A media representative will not be in addition to the names on the approved list and will be counted against the total approved by the Department.

(1) Media representatives may obtain a copy of the Department's policy regarding inmate visitation on the Department's website (www.cor.state.pa.us).

(2) Media representatives and inmates will abide by all applicable rules, regulations and policies of the Department while on facility property. Violations of any rules, regulations or policies of the Department may result in the visit being denied, termination of the visit, suspension of visiting privileges or revocation of visiting privileges.

(3) Visits with a media representative shall be subject to the frequency of visit limitations contained in subsection (h)(4).

(4) For inmates under a sentence of death and prior to the Governor's warrant being issued, media representatives will only be permitted to have noncon-

tact visits with the inmate. After the Governor's warrant has been issued, non-contact visits will only be entertained if the media representative has obtained an order of court of competent jurisdiction granting the relief and has properly served the Department with the court documents seeking or requesting the relief prior to obtaining the order.

(5) Media representatives for the purpose of this section include: representatives of general circulation newspapers; magazines of general circulation sold through newsstands or mail subscriptions to the general public; and National/international news services or radio/television stations holding a Federal Communications Commission license.

Authority

The provisions of this § 93.3 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.3 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended January 14, 1972, effective January 1, 1972, 2 Pa.B. 60; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended September 18, 1998, effective September 19, 1998, 28 Pa.B. 4719; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (297101) to (297103) and (286429) to (286430).

Notes of Decisions

Constitutional Construction

Neither the attorney visitation policy in general nor the application thereof by State correctional officials violated prisoner's right to access to the courts. *Moore v. Lehman*, 940 F. Supp. 704 (M. D. Pa. 1996).

Procedure for Redress

A declaratory judgment would not be an available remedy to an inmate who failed to raise a grievance concerning attorney visitation privileges through the available internal grievance procedures. *Buehl v. Department of Corrections*, 635 A.2d 217 (Pa. Cmwlth. 1991); affirmed 635 A.2d 113 (Pa. 1993).

Temporarily Transferred Inmate

Except for attorney visits, this general regulation permitted, but did not require visitation privileges. Thus, visits to temporarily transferred court bound inmates housed in a special housing unit could be restricted to exclude weekend visitation as officials should not have to reallocate resources and personnel to accommodate weekend visits to inmates in restricted housing. *Bronson v. Zimmerman*, No. 93-6881, 1995 U. S. Dist. LEXIS 3704 (E. D. Pa. March 23, 1995).

Visitation

Visitation was a discretionary matter, subject to restrictions for security purposes, and mandamus did not lie to compel a discretionary act. *Feigley v. Jeffes*, 522 A.2d 179 (Pa. Cmwlth. 1987); appeal denied 532 A.2d 438 (Pa. 1987).

Warning prison visitor of possible loss of visitation privileges if visitor did not consent to search did not constitute coercion, but a valid exercise of authority to reduce threat to the security of the prison. This section did not mandate that the visitor be identified by name. *Commonwealth v. Gumby*, 580 A.2d 1110 (Pa. Super. 1990).

§ 93.4. Purchase for inmates by family and friends.

(a) Family and friends, who are on the inmate's approved visiting list, may purchase approved items for inmates under this section. The facility may disapprove and decline to accept any purchase which does not meet this section.

(b) Only those items listed on the current Approved Master Commissary List may be purchased from approved vendors. Copies of the list are provided to the inmates. Publications may be purchased by means of this procedure, but shall be subject to § 93.2 (relating to inmate correspondence).

(c) Purchases shall be approved prior to the time the item is received by the facility.

(d) Only those items shipped directly from the vendor to the facility will be accepted.

(e) Unauthorized or disapproved items will be returned to the sender at the expense of the inmate.

Authority

The provisions of this § 93.4 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.4 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended January 14, 1972, effective January 1, 1972, 2 Pa.B. 60; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial pages (247989) and (261595).

§ 93.5. [Reserved].**Source**

The provisions of this § 93.5 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended January 14, 1972, effective January 1, 1972, 2 Pa.B. 60; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; reserved December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial pages (261595) to (261596).

Notes of Decisions*Mandamus*

A petition by prison inmate, requesting an injunction and mandamus directing the Department of Corrections to follow its regulations for the review of publications within 10 days after the material is received, was properly denied as the Department had already performed the review and the petitioner's dissatisfaction with that review could not be challenged through mandamus. *Jamal v. Department of Corrections*, 549 A.2d 1369 (Pa. Cmwlth. 1988).

§ 93.6. Religious activities.

(a) *Department responsibilities.* The Department will permit inmates to possess approved religious items and make reasonable accommodations for dietary restrictions. The Department will provide chapel facilities at each facility and will permit inmates to request religious accommodations not already being permitted.

(b) *Religious advisors.*

- (1) If the facility contains a sufficient number of inmates of the same faith, a qualified representative of that faith from the outside community will be appointed and approved by the facility manager. Qualified representative means a person from the outside community who has received endorsement from his faith group authority. Qualified representatives, staff and volunteers will be permitted to hold services that are consistent with the security needs and orderly administration of the facility.
- (2) Each inmate will be permitted to select a religious advisor from the outside community subject to security needs and orderly administration of the facility. This person will be permitted to visit the inmate on an individual basis in accordance with general rules governing visitation.
- (c) *Accommodation of faiths.* Requests for accommodation of faiths will be made according to DC-ADM 819—Religious Activities—which provides a process for inmates to request accommodations not already being provided and for staff review of the requests.

Authority

The provisions of this § 93.6 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.6 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (286431) to (286432).

Notes of Decisions

Visitation

A prisoner's right to practice his religion is not absolute, and this section must be considered in light of the general rules governing visitation at § 93.3 (relating to inmate visiting privileges) which allow restrictions on visitations for security reasons. Thus visitation is a discretionary matter for which mandamus will not lie. *Feigley v. Jeffes*, 522 A.2d 179 (Pa. Cmwlth. 1987).

Cross References

This section cited in 37 Pa. Code § 93.3 (relating to inmate visiting privileges).

§ 93.7. Telephone calls.

- (a) Inmates in general population may make phone calls in accordance with 66 Pa.C.S. § 2907 (relating to state correctional institutions) and the *Department of Corrections Inmate Handbook*. Phone calls, except confidential communications between attorneys and inmates, will be subject to monitoring in accordance with 18 Pa.C.S. § 5704 (relating to exceptions to prohibition of interception and disclosure of communications).
- (b) Phone calls to inmates will be permitted only if approved in advance by the facility manager or a designee.

Authority

The provisions of this § 93.7 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.7 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial page (286432).

§ 93.8. Access to notary service and legal reference materials.

Reasonable access to notary services and the following legal reference materials will be afforded to all inmates:

- (1) United States and Pennsylvania Constitution.
- (2) Federal and Pennsylvania Rules of Civil and Appellate Procedure and local rules of Federal district courts.
- (3) Law dictionary.
- (4) Case law reporters containing Federal district and circuit court decisions and Pennsylvania appellate court decisions.
- (5) Title 18 U.S.C., 28 U.S.C.A. §§ 2241—2255 and 42 U.S.C.A. §§ 1981—1985.
- (6) Titles 18 and 42 of the *Pennsylvania Consolidated Statutes* and Titles 35 and 61, *Purdon's Pennsylvania Statutes*.
- (7) Digest of Pennsylvania cases including volumes relating to criminal law and the table of cases.
- (8) Other materials which may assist inmates to prepare their own legal documents.

Source

The provisions of this § 93.8 adopted February 17, 1984, effective February 18, 1984, 14 Pa.B. 534.

§ 93.9. Inmate complaints.

(a) The Department will maintain an inmate grievance system which will permit any inmate to seek review of problems which the inmate experiences during the course of confinement. The system will provide for review and resolution of inmate grievances at the most decentralized level possible. It will also provide for review of the initial decision making and for possible appeal to the Central Office of the Department. An inmate will not be disciplined for the good faith use of the grievance systems. However, an inmate who submits a grievance for review which is false, frivolous or malicious may be subject to appropriate disciplinary procedures. A frivolous grievance is one in which the allegations or the relief sought lack any arguable basis in fact as set forth in DC-ADM 804—Inmate Grievance System, which is disseminated to inmates.

(b) Inmates may also pursue available remedies in State and Federal court.

Authority

The provisions of this § 93.9 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.9 adopted February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial page (286433).

Notes of Decisions*Good Faith Complaint*

Inmates who were convicted of damaging property stated a valid claim when challenging the amount of money that was owed for the damage, a determination which was made after the initial decision as to whether each was guilty of the misconduct. Further, the calculation in each instance was made after the appeal period on the misconduct decision had passed. Put simply, under the system to which the inmates were subject, the misconduct hearing produced a finding of liability for which an administrative appeal lied; but after that appeal period passed, a decision on damages was made administratively, and in complete absence of any due process. *Holloway v. Lehman*, 671 A.2d 1179 (Pa. Cmwlth. 1996).

The grievance system established by this section is designed to review and resolve problems that an inmate experiences during his incarceration, with an appeal to the Commissioner available if the inmate is dissatisfied. *Mueller v. State Police Headquarters*, 532 A.2d 900 (Pa. Cmwlth. 1987).

Internal Grievance System

Regulations promulgated by Department of Corrections established internal grievance system for inmates to complain about problems that arise "during the course of confinement" was not appropriate avenue as asserted by Department for inmate to seek to compel Department to grant him credit against probation revocation sentence for time served awaiting original trial; decision-makers of the grievance system did not have authority to consider matters of law and regulation specifically permits inmate to pursue any remedies available to him in State and Federal court. *McCray v. Department of Corrections*, 872 A.2d 1127, 1131 (Pa. 2005).

§ 93.10. Inmate discipline.

(a) Rules which define expectations and prohibitions for inmate behavior will be established by the Department and disseminated to the inmate population. There shall be two classes of misconduct charges, Class I and Class II.

(1) Inmates found guilty of Class I misconduct charges may be subjected to one or more of the following sanctions:

(i) Reduction of the classification of the misconduct to a Class II and any sanction permitted for Class II misconducts.

(ii) A sanction permitted for Class II misconducts, without change in class of misconduct.

(iii) Change of cell assignment, including placement in the restricted housing unit or restrictive confinement in a general population cell for a period not to exceed 90 days for any one misconduct charge.

(iv) Change of program level.

(2) Inmates found guilty of Class II misconducts may be subjected to one or more of the following sanctions:

(i) Reprimand.

(ii) Suspension of privileges for a specified period of time.

(iii) Payment of the fair value of property lost or destroyed or for expenses incurred as a result of the misconduct.

(iv) Change of cell assignment excluding placement in the restricted housing unit.

- (v) Change, suspension or removal from job.
- (b) Written procedures which conform to established principles of law for inmate discipline including the following will be maintained by the Department and disseminated to the inmate population:
 - (1) Written notice of charges.
 - (2) Hearing before an impartial hearing examiner or an informal resolution process for charges specified by the Department in the *Department of Corrections Inmate Handbook*, or any Department document that is disseminated to inmates. The informal resolution process is described in DC-ADM 801—Inmate Discipline. The process gives inmates the option to meet with staff to resolve a misconduct rather than proceed with a hearing.
 - (3) Opportunity for the inmate to tell his story and to present relevant evidence.
 - (4) Assistance from an inmate or staff member at the hearing if the inmate is unable to collect and present evidence effectively.
 - (5) Written statement of the decision and reasoning of the hearing body, based upon the preponderance of the evidence.
 - (6) Opportunities to appeal the misconduct decision in accordance with procedures in the *Department of Corrections Inmate Handbook*.

Authority

The provisions of this § 93.10 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.10 adopted February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (286433) to (286434) and (296515).

Notes of Decisions

Evidence

Although inmate did not receive a full investigatory report, a misconduct report provided the inmate with sufficient information from which the inmate could prepare a defense and therefore the inmate's right to call witnesses and present evidence in the inmate's behalf was not violated. *Mays v. Fulcomer*, 552 A.2d 750 (Pa. Cmwlth. 1989).

Review

The Board's decision to rescind a previously issued grant of parole was entitled to the same deference as a denial of parole and was therefore nonreviewable. *Johnson v. Board of Probation and Parole*, 532 A.2d 50 (Pa. Cmwlth. 1987).

Garnishment

The Department of Corrections had the authority to withdraw funds for medical restitution from an inmate's account, where the inmate was found guilty of misconduct for his involvement in a fight with another inmate, and then was found guilty of misconduct for assaulting a correctional officer. *Anderson v. Horn*, 723 A.2d 254 (Pa. Cmwlth. 1998).

To the extent that plaintiff, an inmate, claimed that prison authorities had no legal right to assess prisoners for the damage caused in a riot, the plaintiff's claim was of dubious merit. Requiring resti-

tution by an inmate convicted of a misconduct of the “fair value of property lost or destroyed or for expenses incurred as a result of the misconduct” was authorized under this regulation. *King v. Lehman*, 65 F.3d 162 (1995).

The garnishment of an inmate’s prison account was an appropriate way to enforce a restitution requirement and frequently may be the only practical means of doing so. *King v. Lehman*, 65 F.3d 162 (1995).

Garnishment of an inmate’s prison account was an appropriate way to enforce a restitution requirement and frequently may be the only practical means of doing so. As a practical matter, the imposition of restitution in a situation where the prisoner was one of the ring leaders in a riot constituted no more than a requirement that the inmate work-off some of the expenses incurred by the taxpayers because of the riotous, destructive conduct. *King v. Lehman*, 65 F.3d 162 (1995).

Constitutionality

Notwithstanding the inapplicability of the void—for vagueness doctrine to the inmate disciplinary policy, the court found that a person of ordinary intelligence could decipher the nature of the misconducts of the inmates so the policy was not void for vagueness with respect to them. *Melton v. Beard*, 981 A.2d 361, 364 (Pa. Cmwlth. 2009).

§ 93.11. Housing.

(a) An inmate does not have a right to be housed in a particular facility or in a particular area within a facility.

(b) Confinement in a restricted housing unit (RHU), other than under procedures established for inmate discipline, will not be done for punitive purposes. The Department will maintain written procedures which describe the reasons for housing an inmate in the RHU and require due process in accordance and with established principles of law for an inmate who is housed in the RHU. Inmates confined in the RHU will be reviewed periodically by facility staff.

Authority

The provisions of this § 93.11 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.11 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017; amended March 9, 1973, effective March 10, 1973, 3 Pa.B. 447; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial pages (257004) to (257005).

Notes of Decisions

Administrative Confinement

In this civil rights action, plaintiff, inmate, did not allege denial of due process in connection with assignment to administrative confinement. In fact, the inmate indicated that a hearing was held where the inmate’s rationale for returning to the general prisoner population was expressed. Plaintiff’s assertion that a favorable response to the appeals was not received failed to support that there was denial of an opportunity for appellate review. Plaintiff does not have a constitutional right to be satisfied with the decision of prison officials, made pursuant to applicable prison regulations, where the inmate must remain in administrative confinement for the inmate’s own protection. *Oden v. Caison*, 892 F. Supp. 111 (E. D. Pa. 1995).

Authority

The Department of Corrections could not delegate authority to the State Police to make promises on an inmate housing assignment. The State Police were not authorized agents of the Department of Corrections. *Fay v. Ryan*, 818 F.Supp. 882 (W. D. Pa. 1993).

General Comment

New prison restraint policy, which mandated behind-the-back handcuffing for all out-of-cell movements of all death-sentenced inmates, did not violate regulation, where the regulation does not address the use of restraints. *Commonwealth ex rel. Buehl v. Price*, 705 A.2d 933 (Pa. Cmwlth. 1998); appeal denied 727 A.2d 1123 (Pa. 1998).

An inmate does not have a right under the U. S. Constitution of Pennsylvania State laws or regulations to any specific custody status. *Oden v. Caison*, 892 F. Supp. 111 (E. D. 1995).

Section 93.11(b) provides that the Department of Corrections will require due process in accordance with the law for an inmate housed in a restricted housing unit. In order to show a due process violation under the regulation, a petitioner must allege that the Department failed to comply with every step of the required review process. *Torres v. Beard*, 997 A.2d 1242, 1247 (Pa. Cmwlth. 2010).

§ 93.12. Prison Medical Services Program.

(a) Every institution will establish procedures to permit inmates to have access to health care professionals, prescribed treatment for serious medical needs, appropriate nutrition, exercise and personal hygiene items.

(b) The following words and phrases, when used in this section, have the following meanings unless the context clearly indicates otherwise:

Fee—The portion of the actual cost of a medical service provided to an inmate which the Department has determined shall be charged to the inmate.

Health care professional—

(i) Any physician, physician assistant, nurse, dentist, optometric professional or other person licensed to provide health care under the laws of the Commonwealth.

(ii) The term does not include a corrections health care administrator performing the administrative duties of that position.

Inmate—A person confined to a correctional institution, motivational boot camp, community corrections center or other facility operated by the Department, its agent or contractor.

Medical service—

(i) The diagnosis, evaluation, treatment or preservation of the health of the human body, including its organs, structures and systems.

(ii) The term includes diagnostic testing, prescribing and administering medication, surgical procedures, dental care, eye care, the furnishing of prosthetics and any other type of treatment or preventative care, whether performed on an inpatient or outpatient basis.

(c) The Department will charge a fee to an inmate for any of the following:

(1) Nonemergency medical service provided to an inmate at the inmate's request.

(2) Medical service provided to the inmate as the result of a self-inflicted injury or illness, including emergency medical service provided to the inmate as the result of a self-inflicted injury or illness.

(3) Initial medication prescription except as provided in subsection (d)(2), (14), (16) and (17).

- (4) Medical service provided to another inmate as a result of assaultive conduct engaged in by an inmate to be charged the fee.
 - (5) Medical service provided to an inmate as a result of an injury or illness arising from the inmate's participation in a sport.
 - (6) Medical service provided to an inmate to determine whether the inmate's physical condition is suitable for participation in a sport unless the medical service is provided as part of an inmate's physical examination scheduled by the Department.
- (d) The Department will not charge a fee to an inmate for any of the following:
- (1) Physical, dental or mental health screening provided to an inmate upon intake.
 - (2) Immunization, tuberculosis test, Hepatitis B vaccination or other treatment initiated by the Department for public health reasons.
 - (3) Institution transfer screening.
 - (4) Physical and dental examination scheduled by the Department.
 - (5) Medical service provided to an inmate during a follow-up appointment scheduled by a health care professional employed by the Department or its contractors.
 - (6) Mental health treatment.
 - (7) Medical treatment for a chronic or intermittent disease or illness.
 - (8) Infirmary care in a Department facility.
 - (9) Hospitalization outside of a Department facility.
 - (10) Long-term care to an inmate not in need of hospitalization, but whose needs are such that they can only be met on a long-term basis or through personal or skilled care because of age, illness, disease, injury, convalescence or physical or mental infirmity.
 - (11) Medical referral ordered by a health care professional employed by the Department or its contractors.
 - (12) Medical service provided to an inmate during a medical emergency unless the medical emergency resulted from a self-inflicted injury or illness as determined by the health care professional providing the medical service.
 - (13) Laboratory test, electrocardiogram, dressing change or other treatment ordered by a health care professional employed by the Department or its contractors.
 - (14) Prenatal care.
 - (15) Medical service provided as a result of an injury or illness arising from an inmate's institutional work assignment.
 - (16) Medication prescription subsequent to the initial medication prescription provided to an inmate for the same illness or condition.
 - (17) Social service program including, but not limited to, substance abuse groups and counseling.
 - (18) Psychotropic medication.
 - (19) Medication prescribed for an inmate for public health reasons.
 - (20) Physical, dental and mental health screening performed at the request of the Department.

(21) Medical service provided to an inmate to determine whether his physical condition is suitable for an institutional work assignment.

(22) Eyeglass prescription.

(23) Dentures.

(24) Prosthetic devices excluding customized items.

(e) The fee for any medical service in subsection (c) is \$3. This amount will be increased to \$4 on July 1, 2005, and \$5 on July 1, 2007, except that an inmate is required to pay a fee equivalent to the total cost of medical services provided to another inmate as a result of the inmate's assaultive conduct.

(1) The fee will be assessed each time a medical service in subsection (c) is provided to an inmate, except when multiple services are performed at one visit at the discretion of the health care professional.

(2) Each inmate shall receive 60 days written notice of the implementation of the Prison Medical Services Program.

(3) Each inmate shall receive written notice of any changes in medical service fees and payment procedures at least 60 days after the effective date of a regulation that modifies the fee for medical services and payment procedures.

(f) Payment for any medical service in subsection (c) shall be accomplished according to the following procedures:

(1) At the time any medical service is to be provided to an inmate, the inmate will be informed by the Department or a health care professional contracted by the Department whether a fee will be charged for the medical service and will be provided with an authorization form. The authorization form will describe the medical service to be provided and authorize the institution to deduct the fee from the inmate's account.

(2) An inmate who wishes to receive a medical service after being advised that a fee will be charged for the medical service, shall sign the authorization form acknowledging that his inmate account will be debited for the fee. An inmate who refuses to sign the authorization, who does not sign a refusal of treatment form and who accepts medical treatment will receive the services and his account will be debited. An inmate will not be denied access to medical services because of an inability to pay the required fee. If an inmate lacks sufficient funds to pay a medical service fee, the inmate's account will be debited and the fee recouped as soon as sufficient funds are deposited in the inmate's account.

(3) The Department may seek to recover any amount owed for medical services fees by an inmate upon release under section 5 of the Prisoner Medical Services Act (61 P. S. § 1015).

(g) An inmate who has medical insurance shall pay for his own medical needs through that insurance by cooperating with the Department in submitting the proper paperwork to the insurance carrier.

(h) The Department will include an explanation of the program in the *Department of Corrections Inmate Handbook*.

Authority

The provisions of this § 93.12 amended under section 3(b) of the Prison Medical Services Act (61 P. S. § 1013(b)); and section 903-B of The Administrative Code of 1929 (71 P. S. § 310-2).

Source

The provisions of this § 93.12 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017; amended March 9, 1973, effective March 10, 1973, 3 Pa.B. 447; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended May 29, 1998, effective 60 days after all current inmates receive written notice of the implementation of the program, 28 Pa.B. 2501; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (296516), (286437), (261599) to (261600) and (266457).

Notes of Decisions*Assessment*

The Department of Corrections had the authority to withdraw funds for medical restitution from an inmate's account, where the inmate was found guilty of misconduct for his involvement in a fight with another inmate. *Anderson v. Horn*, 723 A.2d 254 (Pa. Cmwlth. 1998).

Constitutionality

The Prison Medical Services Act and regulations (policy bulletins) do not violate the constitutional prohibition against ex post facto laws, where neither the Act nor the regulations are penal in nature because they do not criminalize any type of conduct that was legal before their enactment nor do they deprive a criminal defendant of any defense that was available to him at the time of the alleged crime, and, even assuming arguendo that the Act and regulations could be considered penal in nature, they did not become enforceable until published and apply only prospectively, not retrospectively. *Silo v. Ridge*, 728 A.2d 394 (Pa. Cmwlth. 1999).

The Prison Medical Services Act and regulations do not violate the constitutional prohibition against bills of attainder, where they do not determine guilt or impose punishment on the inmates, but rather they simply require that inmates pay a small fee for the provision of certain medical services, and the \$2.00 fee is imposed regardless of whether an inmate is legitimately seeking medical treatment or is abusing the prison's sick call procedure. *Silo v. Ridge*, 728 A.2d 394 (Pa. Cmwlth. 1999).

Medical Service

The estate of a pretrial detainee who committed suicide while detained brought a civil rights action against jail officials for failure to provide treatment services required by Pennsylvania law and erroneously claimed that such failure constituted "deliberate indifference." *Herman v. Clearfield County*, 836 F. Supp. 1178 (1993); affirmed 30 F. Supp. 1486 (3.d Cir. (Pa.) 1994).

The Prison Medical Services Act (61 P. S. §§ 1011—1017) requires that Department of Corrections develop by regulation a program with consistent medical services guidelines specifying the services subject to fees, fee amounts, payment procedures and services not subject to fees; Department was not required to exempt treatment of all chronic conditions from co-pay fees and regulations did not prohibit assessing co-pay fees for any conditions. *Portalatin v. Department of Corrections*, 979 A.2d 944, 950 (Pa. Cmwlth. 2009).

Prospective Application

The order of the Secretary of the Department of Corrections assessing the medical costs against an inmate for medical services rendered in 1993 is reversed, where the Prison Medical Services Act and its implementing regulations apply only prospectively and, in this case, the assault and subsequent medical services took place 3 years before the effective date of the act and 5 years before the effective date of the regulations. *Byrd v. Department of Corrections*, 743 A.2d 532 (Pa. Cmwlth. 1999); reargument denied (jan. 2000).

§ 93.13. Procedure in the event of an inmate death.

(a) Every inmate will designate a next of kin or friend to be notified and to whom his property may be delivered for safekeeping in the event of his death.

(b) Inmate deaths, except those which occur under medical supervision and as a result of natural causes, shall be promptly investigated by the State Police.

Source

The provisions of this § 93.13 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017; amended March 9, 1973, effective March 10, 1973, 3 Pa.B. 447; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (10851) and (40989).

§ 93.14. [Reserved].

Source

The provisions of this § 93.14 adopted October 22, 1971, effective October 23, 1971, 1 Pa.B. 2017; amended March 9, 1973, effective March 10, 1973, 3 Pa.B. 447; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (40989) to (40990).

§ 93.21. [Reserved].

Source

The provisions of this § 93.21 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended June 3, 1977, effective June 15, 1977, 7 Pa.B. 1480; enforcement of section suspended until further notice by the Commissioner June 24, 1977, 7 Pa.B. 1745; amended September 16, 1977, effective September 17, 1977, 7 Pa.B. 2648; amended September 29, 1978, effective October 1, 1978, 8 Pa.B. 2682; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (40990) to (40991).

§ 93.22. [Reserved].

Source

The provisions of this § 93.22 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended June 3, 1977, effective June 15, 1977, 7 Pa.B. 1480; enforcement of section suspended until further notice by the Commissioner June 24, 1977, 7 Pa.B. 1745; amended September 16, 1977, effective September 17, 1977, 7 Pa.B. 2648; amended September 29, 1978, effective October 1, 1978, 8 Pa.B. 2682; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (40991).

§ 93.23. [Reserved].

Source

The provisions of this § 93.23 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended April 7, 1972, effective April 8, 1972, 2 Pa.B. 617; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended June 3, 1977, effective June 15, 1977, 7 Pa.B. 1480; enforcement of section suspended until further notice by the Commissioner June 24, 1977, 7 Pa.B. 1745; amended September 16, 1977, effective September 17, 1977, 7 Pa.B. 2648; amended September 29, 1978, effective October 1, 1978, 8 Pa.B. 2682; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (40991) to (40993).

§ 93.24. [Reserved].**Source**

The provisions of this § 93.24 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended June 3, 1977, effective June 15, 1977, 7 Pa.B. 1480; enforcement of section suspended until further notice of Commissioner June 24, 1977, 7 Pa.B. 1745; amended September 16, 1977, effective September 17, 1977, 7 Pa.B. 2648; amended September 29, 1978, effective October 1, 1978, 8 Pa.B. 2682; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (40993).

§ 93.25. [Reserved].**Source**

The provisions of this § 93.25 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended June 3, 1977, effective June 15, 1977, 7 Pa.B. 1480; enforcement of section suspended until further notice of Commissioner June 24, 1977, 7 Pa.B. 1745; amended September 16, 1977, effective September 17, 1977, 7 Pa.B. 2648; amended September 29, 1978, effective October 1, 1978, 8 Pa.B. 2682; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (40993) to (40994).

§ 93.26. [Reserved].**Source**

The provisions of this § 93.26 adopted June 3, 1977, effective June 15, 1977, 7 Pa.B. 1480; enforcement of section suspended until further notice of Commissioner June 24, 1977, 7 Pa.B. 1745; amended September 16, 1977, effective September 17, 1977, 7 Pa.B. 2648; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (40994) to (40995).

§ 93.31. [Reserved].**Source**

The provisions of this § 93.31 adopted November 26, 1971, effective November 15, 1971, 1 Pa.B. 2188; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (40995) to (40996).

§ 93.32. [Reserved].**Source**

The provisions of this § 93.32 adopted November 26, 1971, effective November 15, 1971, 1 Pa.B. 2188; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (40996).

§ 93.33. [Reserved].

Source

The provisions of this § 93.33 adopted November 26, 1971, effective November 15, 1971, 1 Pa.B. 2188; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (40996) to (40997).

§ 93.34. [Reserved].

Source

The provisions of this § 93.34 adopted November 26, 1971, effective November 15, 1971, 1 Pa.B. 2188; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (40997).

§ 93.35. [Reserved].

Source

The provisions of this § 93.35 adopted November 26, 1971, effective November 15, 1971, 1 Pa.B. 2188; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (40997) and (5223).

§ 93.36. [Reserved].

Source

The provisions of this § 93.36 adopted November 26, 1971, effective November 15, 1971, 1 Pa.B. 2188; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (5223).

§ 93.37. [Reserved].

Source

The provisions of this § 93.37 adopted November 26, 1971, effective November 15, 1971, 1 Pa.B. 2188; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (5223) to (5224).

§ 93.41. [Reserved].

Source

The provisions of this § 93.41 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (5224).

§ 93.51. [Reserved].

Source

The provisions of this § 93.51 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; reserved February 14, 1971, effective February 15, 1971, 14 Pa.B. 534. Immediately preceding text appears at serial page (5224).

§ 93.61. [Reserved].**Source**

The provisions of this § 93.61 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (5224).

§ 93.71. [Reserved].**Source**

The provisions of this § 93.71 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended November 24, 1978, effective October 1, 1978, 8 Pa.B. 3337; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (40999).

§ 93.72. [Reserved].**Source**

The provisions of this § 93.72 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended November 24, 1978, effective October 1, 1978, 8 Pa.B. 3337; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (40999) to (41000) and (82042).

§ 93.73. [Reserved].**Source**

The provisions of this § 93.73 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended November 24, 1978, effective October 1, 1978, 8 Pa.B. 3337; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (82042) to (82043).

§ 93.74. [Reserved].**Source**

The provisions of this § 93.74 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended November 24, 1978, effective October 1, 1978, 8 Pa.B. 3337; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (82043).

§ 93.75. [Reserved].**Source**

The provisions of this § 93.75 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended November 24, 1978, effective October 1, 1978, 8 Pa.B. 3337; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (82044).

§ 93.76. [Reserved].

Source

The provisions of this § 93.76 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended October 6, 1972, effective October 7, 1972, 2 Pa.B. 1896; amended November 24, 1978, effective October 1, 1978, 8 Pa.B. 3337; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (82044).

§ 93.81. [Reserved].

Source

The provisions of this § 93.81 adopted August 14, 1971, effective August 15, 1971, 1 Pa.B. 1655; amended June 8, 1973, effective June 1, 1973, 3 Pa.B. 1100; amended September 29, 1978, effective October 1, 1978, 8 Pa.B. 2682; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (82045).

§ 93.82. [Reserved].

Source

The provisions of this § 93.82 adopted June 8, 1973, effective June 1, 1973, 3 Pa.B. 1100; amended September 29, 1978, effective October 1, 1978, 8 Pa.B. 2682; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (82045).

§ 93.83. [Reserved].

Source

The provisions of this § 93.83 adopted June 8, 1973, effective June 1, 1973, 3 Pa.B. 1100; amended September 29, 1978, effective October 1, 1978, 8 Pa.B. 2682; amended March 7, 1980, effective March 8, 1980, 10 Pa.B. 977; corrected March 28, 1980, 10 Pa.B. 1390; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (82045) and (49250).

§ 93.84. [Reserved].

Source

The provisions of this § 93.84 adopted June 8, 1973, effective June 1, 1973, 3 Pa.B. 1100; amended September 29, 1978, effective October 1, 1978, 8 Pa.B. 2682; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (49250).

§ 93.91. [Reserved].

Source

The provisions of this § 93.91 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (49251).

§ 93.101. [Reserved].**Source**

The provisions of this § 93.101 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (49251).

§ 93.102. [Reserved].**Source**

The provisions of this § 93.102 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (55341).

Subchapter B. [Reserved]**Source**

The provisions of this Subchapter B adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (55342) to (55345) and (27175).

§ 93.151. [Reserved].**Source**

The provisions of this § 93.151 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (55342).

§ 93.152. [Reserved].**Source**

The provisions of this § 93.152 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (55342).

§ 93.153. [Reserved].**Source**

The provisions of this § 93.153 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (55342).

§ 93.154. [Reserved].

Source

The provisions of this § 93.154 adopted December 12, 1980, effective December 13, 1980, 10 Pa.B. 4665; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (55343).

§ 93.155. [Reserved].

Source

The provisions of this § 93.155 adopted December 12, 1980, effective December 13, 1980, 10 Pa.B. 4665; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (55343) to (55344).

§ 93.156. [Reserved].

Source

The provisions of this § 93.156 adopted December 12, 1980, effective December 13, 1980, 10 Pa.B. 4665; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (55344).

§ 93.161. [Reserved].

Source

The provisions of this § 93.161 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (55344) to (55345).

§ 93.171. [Reserved].

Source

The provisions of this § 93.171 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (55345).

§ 93.172. [Reserved].

Source

The provisions of this § 93.172 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (55345).

§ 93.181. [Reserved].

Source

The provisions of this § 93.181 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (27175).

§ 93.191. [Reserved].**Source**

The provisions of this § 93.191 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (27175).

§ 93.201. [Reserved].**Source**

The provisions of this § 93.201 adopted August 15, 1971, effective August 16, 1971, 1 Pa.B. 1655; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (27175).

Subchapter C. MOTIVATIONAL BOOT CAMPS**Sec.**

- 93.301. Definitions.
- 93.302. Selection criteria.
- 93.303. Selection committee.
- 93.304. Administration.
- 93.305. Supervision/organizational structure.
- 93.306. Curriculum.
- 93.307. Inmate discipline.
- 93.308. Staff training.

Authority

The provisions of this Subchapter C issued under section 5(c) of the Motivational Boot Camp Act (61 P. S. § 1125(c)), unless otherwise noted.

Source

The provisions of this Subchapter C adopted March 3, 2000, effective March 4, 2000, 30 Pa.B. 1252, unless otherwise noted.

§ 93.301. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Motivational Boot Camp Act (61 P. S. §§ 1121—1129).

Secretary—The Secretary of the Department.

Three-tiered approach—A three-step disciplinary process in which an inmate first receives a demerit or demerits. Upon receiving ten or more demerits in a 7-day period, the inmate shall appear before the deputy commander's review board and may receive restrictions or additional duties. The final step is the commander's committee at which point an inmate may be removed from the motivational boot camp.

Ventilation therapy—A group session led by a counselor during which inmates are encouraged to discuss problems, stressful matters or pressures they are currently experiencing. The objective of the discussion is to help inmates identify, explore and ultimately either resolve or better cope with the stressors.

Authority

The provisions of this § 93.301 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.301 amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial page (263820).

§ 93.302. Selection criteria.

(a) An eligible inmate, as that term is defined in section 3 of the act (61 P. S. § 1123), may be selected by the Department for participation in a motivational boot camp. In selecting inmates for participation in a motivational boot camp, the selection committee will consider all information relevant to whether the inmate is eligible for placement in a motivational boot camp and likely to perform competently while in the motivational boot camp. Selection criteria will include the following:

- (1) The written application submitted by the inmate.
- (2) Whether the inmate's participation in a motivational boot camp is consistent with the safety of the community.
- (3) Whether the inmate's participation in a motivational boot camp is consistent with the welfare of the inmate.
- (4) Whether the inmate's participation in a motivational boot camp is consistent with the objectives of the Department.
- (5) The health and physical condition of the inmate.
- (6) The inmate's criminal history.
- (7) The inmate's escape history.
- (8) The inmate's institutional adjustment during current and prior incarcerations.
- (9) Outstanding detainers or parole warrants, or both, for the inmate.
- (10) The inmate's psychological profile.
- (11) The submittal of a signed memorandum of understanding as required by section 6(c) of the act (61 P. S. § 1126(c)).

(b) An inmate will not be guaranteed acceptance into a motivational boot camp even if the inmate is eligible and likely to successfully graduate from a motivational boot camp.

(c) Successful completion of the boot camp program requires completion of three phases.

- (1) The first phase consists of orientation and introduction to discipline, physical training and treatment.

- (2) The second phase consists of discipline, physical training and treatment.
- (3) The third phase consists of preparing the inmates for life in society and striving for perfection in the aspects of the second phase of the program.

§ 93.303. Selection committee.

- (a) There shall be a motivational boot camp selection committee in each diagnostic and classification center operated by the Department.
- (b) Each selection committee shall be composed of the following individuals:
 - (1) The diagnostic center director or a corrections counselor supervisor, or both.
 - (2) A lieutenant or corrections counselor, or both.
- (c) The selection committee is only responsible for recommending inmates for participation in a motivational boot camp.

Authority

The provisions of this § 93.303 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.303 amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (286441) to (286442).

§ 93.304. Administration.

- (a) The Department will administer motivational boot camps at sites to be determined by the Department.
- (b) Each motivational boot camp will operate under the administrative supervision of the Secretary or a designee.

Authority

The provisions of this § 93.304 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 93.304 amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial page (263822).

§ 93.305. Supervision/organizational structure.

- (a) Each motivational boot camp will be organized as a paramilitary unit with a supervisory structure consisting of a camp commander, a deputy commander and area commanders.

(b) The inmates will be organized into platoons consisting of no more than 50 inmates per platoon.

(c) Each platoon shall have at least two Department drill instructors.

§ 93.306. Curriculum.

Each motivational boot camp shall consist of the following curriculum:

- (1) Rigorous physical activity.
- (2) Intensive regimentation and discipline.
- (3) Work on public and community projects.
- (4) Substance abuse treatment.
- (5) Continuing education.
- (6) Vocational training.
- (7) Prerelease counseling.
- (8) Ventilation therapy.

§ 93.307. Inmate discipline.

(a) A list of the rules to be followed by inmates participating in a motivational boot camp will be provided to an inmate during orientation to the motivational boot camp.

(b) Serious rule infractions which constitute Class I misconducts listed in DC-ADM 801—*Inmate Discipline*—may result in an inmate’s expulsion from a motivational boot camp.

(c) Minor rule infractions which constitute Class II misconducts listed in the DC-ADM 801—*Inmate Discipline*—will be dealt with according to a three-tiered approach.

(d) Inmates can be suspended or removed from a motivational boot camp for reasons other than violations of disciplinary rules, such as receipt by the Department of additional detainers or changes which make the inmate ineligible for the program or reasons which in the opinion of the commander make the inmate unsuitable for the motivational boot camp or detrimental to the motivational boot camp.

Source

The provisions of this § 93.307 amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial page (286443).

§ 93.308. Staff training.

Staff directly involved with a motivational boot camp shall undergo a minimum of 4 weeks of intensive training in addition to training required of all Department employees.

- (1) This training shall include instruction on the boot camp’s programs including the drug and alcohol program, drill and ceremony, the role model concept and physical training.

(2) Training shall also include instruction on the goals and philosophy of the boot camp as well as basic security.

(3) Drill instructors shall receive the training along with a 5-month on-the-job training program including a 2-week training assignment at a training center for Department drill instructors.

(4) Training for drill instructors shall include physical training of groups, drill and ceremony, leadership development and assessment, professional sensitivity and awareness, counseling techniques and instructional methods.

(5) Employees will not work as drill instructors until they have received this training and a certificate from the Secretary.

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