| NEW YORK STATE Corrections and Community Supervision<br>**DIRECTIVE** | TITLE<br>**Confidential Security Information** | | NO.<br>0410<br>DATE<br>11/21/2019 |
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| SUPERSEDES<br>DIR # 0410 Dtd. 12/13/16 | DISTRIBUTION<br>A B | PAGES<br>PAGE 1 OF 2 | DATE LAST REVISED |
| REFERENCES (Include but are not limited to)<br>Public Officer's Law; 7NYCRR Part 51.1; ACA Expected Practices 4-APPFS-3D-28, 2-1079; Directive #2009, #2010, #2012 2012, #2111, and #2260, Employees' Manual; Health Services Policy Manual | APPROVING AUTHORITY<br> | | |

**I. PURPOSE**: This directive defines confidential security information, and is intended to enhance controls over unauthorized or unmindful disclosure of such information.

**II. SCOPE**: Confidential security information is handled and transmitted by employees throughout the typical work day. Employees become knowledgeable about institutional environments, individual inmates or parolees, procedural details, and institutional and Departmental affairs in the performance of their assigned duties. Accordingly, this directive applies to all employees. This directive should not be construed to limit or interpret any other Departmental directives or regulations on Departmental information as identified below.

**III. REFERENCES**

Public Officer's Law, Section 74, states in relevant part "No officer ... should disclose confidential information acquired by him in the course of his official duties ..." This is restated in the Employees' Manual, Section 4.2, and summarized in Directive #2260, "New York State Ethics."

7NYCRR Part 51.1, "Divulgence of information," states in relevant part "Information relative to institutional or departmental affairs and individual inmates must be authorized and given out by the commissioner ... Inquiries ... shall not be answered by the employee but referred to the Superintendent."

Employees' Manual, Section 2.2 states in relevant part "An employee shall not knowingly or willingly violate any law ... of ... the State of New York or any rule, regulation, or directive of the Department."

Directive #2010, "FOIL/Access to Departmental Records," sets forth procedures and additional references for disclosure of information, including information subject to the Freedom of Information Law (FOIL).

Directive #2111, "Report of Employee Misconduct," sets forth the procedure for reporting employee misconduct and recommending disciplinary action.

**IV. POLICY**

A. Confidential Security Information: Is defined as any information which, if disclosed, could compromise the safety and security of inmates, parolees, employees, or the public, or which would otherwise violate the Public Officers Law or Departmental regulations listed as references above.

Although this definition is broad, it must be generally considered that Department employees, like employees in many industries and military services, work in an environment and handle information that must not be discussed outside the workplace or communicated over non-secure media.

Accordingly, employees should be on guard in public to refrain from discussions of internal affairs and specific inmates or parolees. This will minimize the risk of unintended disclosure of confidential security information.

Note: In accordance with Section 4.7 of the Employees' Manual, Department staff shall not have access to the personnel records of any other employee or to the case records of any inmate or parolee except as required in the discharge of his or her official duties. All employees shall take precautions to ensure that unauthorized persons do not have access to confidential material.

Requests for information should be handled by facility, regional office, and Department staff who have been specifically designated to process and fill such requests. Curious acquaintances and members of the public seeking information should not be given informal responses but should be directed to call a facility Superintendent, Regional Director, or Central Office, or to make a FOIL request.

Confidential security information includes, but is not limited to:

- Contents of "D" classification directives
- Contents of manuals or documentation which describe emergency or security procedures
- Descriptions of institutional environments
- Information about inmate moves
- Information about a parolee supervision

B. Note that information which may not be categorized as confidential security may be protected by the Privacy Act or regulations restricting dissemination of personal or criminal history information. See Directives #2009 through #2012, and the Health Services Policy Manual.

C. In addition to the risks of unintended disclosure of confidential security information from casual conversations in public places, all employees are reminded that cellular and cordless phones and computer on-line services use non-secure media which can be monitored or intercepted by outside parties.

D. Employees who have any questions about the interpretation or application of this directive or any referenced material should discuss them with supervisory or executive staff.

E. Employees responsible for unauthorized or unmindful disclosure of confidential security information may be subject to a report of misconduct and possible disciplinary action.

| NEW YORK STATE Corrections and Community Supervision<br>**DIRECTIVE** | TITLE<br>**Fingerprinting/Criminal History Inquiry - New Employees and Contractors** | | NO.<br>2216<br>DATE<br>11/01/2018 |
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| SUPERSEDES<br>DIR# 2216 Dtd. 08/15/17 | DISTRIBUTION<br>A | PAGES<br>PAGE 1 OF 9 | DATE LAST REVISED |
| REFERENCES (Include but are not limited to)<br>Directives #2112, #4750; OSC Payroll Bulletin #231; DCJS Use and Dissemination Agreement; ACA Expected Practice 4-4061 | APPROVING AUTHORITY | | |

I. **POLICY**: All employees and contractors of the Department of Corrections and Community Supervision (DOCCS) will be subjected to a criminal history inquiry in order to obtain background information pertinent to the security of operations, to verify data on employment applications, and to receive notification when Department employees are arrested. Employees and contractors may also be fingerprinted in accordance with this directive. This policy applies to all titles as defined in Section II, Definitions.

II. **DEFINITIONS**

A. Employee: An individual paid either annually, by calendar, 21 pay periods, or by a fee to perform duties within a correctional facility.

B. Part-Time/Half-Time Employee: An annual salaried employee whose work schedule is less than 100 percent of the time.

C. Per Diem Employee: An employee that is not annual salaried who is paid on an hourly basis.

D. Extra Service Employee: A State employee who renders a service to an agency, office, or correctional facility other than the one in which they are regularly employed on a full-time basis. Extra service employees are salaried by the agency, office, or facility the employee renders service to.

E. Outside Agency Employee: A State employee who is employed by an agency other than DOCCS, whose work assignment is within a DOCCS office or facility (e.g., Information Technology Services (ITS), Office of Mental Health (OMH), Department of Motor Vehicles (DMV) staff).

F. Contract Service Provider/Consultant: A non-State employee who provides, under a formal agreement, a service to the facility but does not receive direct compensation as salary from the Department and whose duties are not performed under the direct supervision of security staff (e.g., Registered Nurse, Optometrist, Computer Software Engineer, etc.).

G. Contractor: A non-State employee who provides, under a formal agreement, material, labor, repair, or maintenance on facility property, but does not receive direct compensation as salary from the Department.

H. Volunteer: A volunteer is a person who is authorized to provide a service to DOCCS and its inmates. Refer to Directive #4750, “Volunteer Services Program,” for processing direction on types of volunteers.

## III. CRIMINAL HISTORY INQUIRIES

A. Employees

1. *Correction Officers and Peace Officers*: Criminal history inquiries shall be conducted on all Peace Officer applicants by the Department's Employee Investigation Unit (EIU) as part of the pre-employment investigation.

2. *Non-Uniform (Civilian) Employees*: Criminal history inquiries shall be conducted on all non-uniform (civilian) staff. Superintendents, Regional Directors, Central Office Personnel, or their designees shall request a criminal history inquiry on individuals by electronically transmitting a criminal history request via http://criminalhistoryrequest/. The electronic criminal history request form must be submitted to EIU and the EIU response must be received by the requestor prior to the first day of employment. Derogatory criminal history information received in response to inquiries will be referred to the Director of Personnel for review.

   NOTE: Summer School Teachers: Prior to the start of each summer session, facilities must request a criminal history inquiry be conducted.

   NOTE: Paid interns will be processed as employees.

   NOTE: Non-paid interns will be processed as volunteers.

3. *Per Diem Employees*: Criminal history inquiries shall be conducted in the same manner as non-uniform (civilian) staff (see Section III-A-2 above).

4. *Extra Service Employee*: Criminal history inquiries shall not be conducted on extra service employees that are permanent DOCCS staff. Criminal history inquiries shall be conducted on all extra service employees that are not DOCCS staff. Superintendents, Regional Directors, Central Office Personnel, or their designees shall request a criminal history inquiry on individuals by electronically transmitting a criminal history request via http://criminalhistoryrequest/. The electronic criminal history request form must be submitted to EIU and the EIU response must be received by the requestor prior to the first day of employment. Derogatory criminal history information received in response to inquiries will be referred to the Director of Personnel for review.

B. Outside Agency Employees

1. *Information Technology Services (ITS)*: Screening will be performed initially by New York State Police (NYSP). DOCCS will not receive notifications on clean hires. DOCCS will not receive notifications on automatic disqualifications. DOCCS (EIU@doccs.ny.gov) will receive notifications of "hits" on prospective ITS hires that do not automatically disqualify under Criminal Justice Information Services (CJIS), but who ITS wants to place here, so that DOCCS can review to determine suitability. EIU will refer "hits" to Office of Special Investigations (OSI); OSI will confer with the Chief Information Officer to determine suitability.

2. *Department of Motor Vehicles (DMV)*: Criminal history inquiries shall be conducted on all DMV employees whose work assignment is within a DOCCS office or facility. Superintendents, Regional Directors, Central Office Personnel, or their designees shall request a criminal history inquiry on individuals by electronically transmitting a criminal history request via http://criminalhistoryrequest/.

The electronic criminal history request form must be submitted to EIU and the EIU response must be received by the requestor prior to the first day of employment. Derogatory criminal history information received in response to inquiries will be referred to the Director of Personnel for review.

3. *Office of Mental Health (OMH)*: Criminal history inquiries shall be conducted on all OMH employees whose work assignment is within a DOCCS office or facility. Superintendents, Regional Directors, Central Office Personnel, or their designees shall request a criminal history inquiry on individuals by electronically transmitting a criminal history request via http://criminalhistoryrequest/. The electronic criminal history request form must be submitted to EIU and the EIU response must be received by the requestor prior to the first day of employment. Derogatory criminal history information received in response to inquiries will be referred to the Director of Personnel for review.

   NOTE: OMH staff are exempt from providing their Social Security Number to DOCCS for the purposes of criminal history inquiry and fingerprinting.

C. Contract Service Providers and Consultants: Criminal history inquiries shall be conducted on all contract service providers and consultants. Superintendents, Regional Directors, Central Office Personnel, or their designees shall request a criminal history inquiry on individuals by electronically transmitting a criminal history request via http://criminalhistoryrequest/. The electronic criminal history request form must be submitted to EIU and the EIU response must be received by the requestor prior to the first day of employment. Derogatory criminal history information received in response to inquiries will be referred to the Director of Personnel for review.

D. Contractors: Criminal history inquiries shall be conducted on all contractors. Superintendents, Regional Directors, Central Office Personnel, or their designees shall request a criminal history inquiry on individuals by electronically transmitting a criminal history request via http://criminalhistoryrequest/. The electronic criminal history request form must be submitted to EIU and the EIU response must be received by the requestor prior to contractor entry into any DOCCS facility/office. Derogatory criminal history information received in response to inquiries will be referred to the Director of Personnel, Superintendent, Regional Director, OSI, or designee as appropriate for review.

E. Volunteers: See Directive #4750, "Volunteer Services Program," Section VI-C-3.

****UNDER NO CIRCUMSTANCE WILL YOUTHFUL OFFENDER (YO), JUVENILE DELINQUENT (JD), OR JUVENILE OFFENDER (JO) INFORMATION BE RELEASED FROM THE EMPLOYEE INVESTIGATIONS UNIT (EIU).****

## IV. FINGERPRINTING

A. Responsibility

1. *Correction Officer and Peace Officer applicants* requiring pre-employment screening shall be fingerprinted by EIU at the time of the initial background interview. Fingerprint responses (RAP sheets) will be retained in the background investigation file in EIU.

2. *Non-uniform (civilian) staff* will be fingerprinted on the initial date of employment. Central Office employees shall be fingerprinted by the Bureau of Personnel at EIU, facility employees shall be fingerprinted by the facility ID Officer, and Community Supervision employees shall be fingerprinted by trained staff on the FBI FD-258 APPLICANT card (blue). The fingerprints will be forwarded to EIU for processing immediately. Fingerprint responses (RAP sheets) will be forwarded to the originating facility/office by EIU. Responses that contain derogatory information that was not revealed when the criminal history inquiry was processed for employees and per diem employees will be reviewed by the Bureau of Personnel in Central Office (see also Directive #2112, "Report of Criminal Charges").

   NOTE: Teachers, Vocational Instructors, and other 10-month employees assigned to the regular school year will be fingerprinted only once, even when they do not work the summer session. Summer School Teachers/Vocational Instructors will be fingerprinted only once as long as they work every consecutive summer. If there is a break in service and they fail to work one summer, they will be treated as a new employee during future summers, fingerprinted and charged the applicable fee.

   NOTE: Paid interns are processed as non-uniform (civilian) employees.

   NOTE: Non-paid Interns are processed and fingerprinted as volunteers.

3. *Per diem employees* shall be processed in the same manner as non-uniform (civilian) staff (see Section III-B-2 above).

4. *Extra service employees* who are permanent DOCCS employees will not be fingerprinted. Extra service employees who are not DOCCS employees but are assigned to the Department's facilities, Community Supervision offices, or to Central Office will be fingerprinted on the initial date of assignment. Fingerprints will be taken on the FBI FD-258 APPLICANT card (blue). A journal voucher (JV) must accompany all fingerprint cards in order to provide the required processing fee. Failure to submit the JV will result in a delay in processing. Fingerprint responses (RAP sheets) will be retained by EIU. Responses that contain derogatory information that was not revealed when the criminal history inquiry was processed for extra service employees will be reviewed by the Bureau of Personnel in Central Office. Upon notification from Personnel to proceed, EIU will notify the sender/submitter of the prints via email and confirm the transaction was successful and that there is now a RAP sheet on file at EIU. Where it has been determined that the extra service employee shall no longer enter DOCCS facilities/offices, EIU will notify the Superintendent, Regional Director, Division Head, or their designee.

5. *Outside Agency Employees*

   a. *ITS* employees screening will be performed initially by New York State Police (NYSP). DOCCS will not receive notifications on clean hires. DOCCS will not receive notifications on automatic disqualifications. DOCCS (EIU@doccs.ny.gov) will receive notifications of "hits" on prospective ITS hires that do not automatically disqualify under CJIS, but who ITS wants to place here, so that DOCCS can review to determine suitability. EIU will refer "hits" to OSI; OSI will confer with the Chief Information Officer to determine suitability.

b. *DMV* staff assigned to the Department's facilities, Community Supervision offices, or to Central Office will be fingerprinted on the initial date of assignment. Fingerprints will be taken on the FBI FD-258 APPLICANT card (blue) and submitted to EIU. A JV must accompany all fingerprint cards in order to provide the required processing fee. Failure to submit the JV will result in a delay in processing. Fingerprint responses (RAP sheets) will be retained by EIU. Responses that contain derogatory information that was not revealed when the criminal history inquiry was processed for DMV employees will be reviewed by the Director of Personnel. Upon notification from Personnel to proceed, EIU will notify the sender/submitter of the prints via email and confirm the transaction was successful and that there is now a RAP sheet on file at EIU. Where it has been determined that the DMV employee shall no longer enter DOCCS facilities/offices, EIU will notify the Superintendent, Regional Director, Division Head, or their designee.

c. *OMH* staff assigned to the Department's facilities will be fingerprinted on the initial date of assignment. Fingerprints will be taken on the FBI FD-258 APPLICANT card (blue) and submitted to EIU. A JV must accompany all fingerprint cards in order to provide the required processing fee. Failure to submit the JV will result in a delay in processing. Fingerprint responses (RAP sheets) will be retained by EIU. Responses that contain derogatory information that was not revealed when the criminal history inquiry was processed for OMH employees will be reviewed by the Director of Personnel. Upon notification from Personnel to proceed, EIU will notify the sender/submitter of the prints via email and confirm the transaction was successful and that there is now a RAP sheet on file at EIU. Where it has been determined that the OMH employee shall no longer enter DOCCS facilities/offices, EIU will notify the Superintendent, Regional Director, Division Head, or their designee.

NOTE: OMH staff are exempt from providing their Social Security Number to DOCCS for the purposes of criminal history inquiry and fingerprinting.

6. *Contract service providers and consultants* will be fingerprinted on the initial date of assignment. Contract service providers and consultants assigned to Central Office shall be fingerprinted by the Bureau of Personnel at EIU, those assigned to a facility shall be fingerprinted by the facility ID Officer, and those assigned to Community Supervision shall be fingerprinted by trained staff on the FBI FD-258 APPLICANT card (blue) and submitted to EIU. A JV must accompany all fingerprint cards in order to provide the required processing fee.

Failure to submit the JV will result in a delay in processing. Fingerprint responses (RAP sheet) will be retained by EIU. Responses that contain derogatory information that was not revealed when the criminal history inquiry was processed for Contract Service Providers will be reviewed by the Director of Personnel. Upon notification from Personnel to proceed, EIU will notify the sender/submitter of the prints via email and confirm the transaction was successful and that there is now a RAP sheet on file at EIU. Where it has been determined that the Contract Service Provider shall no longer enter DOCCS facilities/offices, EIU will notify the Superintendent, Regional Director, Division Head, or their designee.

NOTE: If the contract service provider employee is working at more than one facility, the facility should contact EIU at (518) 485-9500 to determine if fingerprints were previously submitted by another facility. It will only be necessary for one set of fingerprints to be submitted.

7. *Contractors who work within any DOCCS facility or office* will be fingerprinted where the Superintendent, Regional Director, Division Head, or their designee has determined that based on the nature of the anticipated work, a contractor will have direct contact with inmates, or the contract provides for six months or more of services. Direct contact with inmates means contact beyond incidental contact, such as direct contact with inmates while providing the contracted service, or contact with inmates while the contractor is performing work in an operational program or housing area. Correctional facility contractor fingerprints will be taken by the facility ID Officer. Community Supervision contractors shall be fingerprinted by trained staff within the Community Supervision offices. Central Office or Training Academy contractors shall be fingerprinted at EIU on the FBI FD-258 APPLICANT card (blue) and submitted to EIU. A JV must accompany all fingerprint cards in order to provide the required processing fee. Failure to submit the JV will result in a delay in processing. EIU will notify the sender/submitter of the prints via email and confirm the transaction was successful and that there is now a RAP sheet on file at EIU. EIU will also include any discrepant information that may have been revealed on the RAP sheet that was not included with the initial criminal history inquiry.

   NOTE: Contractors may be working at more than one facility/office; the facility/office should contact EIU at (518) 485-9500 to determine if fingerprints were previously submitted by another facility. It will only be necessary for one set of fingerprints to be submitted.

8. Volunteers: See Directive #4750, Section VI-C-3.

****UNDER NO CIRCUMSTANCE WILL YOUTHFUL OFFENDER (YO), JUVENILE DELINQUENT (JD), OR JUVENILE OFFENDER (JO) INFORMATION BE RELEASED FROM THE EMPLOYEE INVESTIGATIONS UNIT (EIU)****

B. Fingerprint Cards*: The processing person shall verify the identity of the person being fingerprinted via a valid government issued picture ID, enter all pertinent data by following the instructions on the card, take the prints using the “rolled impression” method in the numbered print blocks, and the “plain impression” method in the lower row of blocks, secure the signature of the person being fingerprinted, and then sign as the official taking the fingerprints.

   To avoid delay in the processing of fingerprint cards, be sure to complete cards clearly and legibly. To reorder fingerprint cards, contact EIU at (518)485-9500.

   The FBI FD-258 APPLICANT card (blue) shall be completed for all titles as defined in Section II of this directive and forwarded to:

   NYS DOCCS
   Attn: EIU
   1220 Washington Avenue
   Albany, NY 12226 – 2050.

   *See the summary Processing Chart, Attachment A.

C. Fees*

1. *Correction Officer and Peace Officer applicants* requiring pre-employment screening at EIU must pay the fingerprint processing fee. The $75 fingerprint processing fee will be made via a U.S. Postal Money Order at the time the applicant is Live Scanned at EIU.
2. *New non-uniform (civilian) staff* will have the $75 fingerprint processing fee taken out of their first full paycheck via payroll deduction. When these employees are fingerprinted on the first day of work, the Personnel office must notify the Payroll office that a fingerprint deduction (per OSC Payroll Bulletin #231) needs to be processed. If a non-uniformed civilian staff employee separates from service before they receive a full check, the facility MUST obtain the fingerprint fee from any money the employee is due. It is the responsibility of the facility to obtain the fingerprint fee from the employee. Failure to obtain the fingerprint fee will result in the facility making payment from the facility funds to make the fingerprint fee account whole.
3. *Per diem employees and physicians* must pay the fingerprint processing fee. The $75 fingerprint processing fee will be made via a U.S. Postal Money Order, which should accompany the fingerprints when they are forwarded to EIU.
4. *Extra service employees* that are not permanent Department employees assigned to the Department's facilities, Community Supervision offices, or to Central Office will have the fingerprint processing fee paid via JV by the facility/office submitting the fingerprints.
5. *Outside agency employees* assigned to the Department's facilities, Community Supervision offices, or to Central Office will have the fingerprint processing fee paid via JV by the facility/office submitting the fingerprints.
6. *Contract service providers and consultants* assigned to the Department's facilities, Community Supervision offices, or to Central Office will have the fingerprint processing fee paid via JV by the facility/office submitting the fingerprints.
7. *Contractors* assigned to the Department's facilities, Community Supervision offices, or to Central Office will have the fingerprint processing fee paid via JV by the facility/office submitting the fingerprints.
8. *Volunteers*: Persons who are deemed a volunteer will not be charged a fee per the DCJS Use and Dissemination Agreement.

*See the summary Processing Chart, Attachment A.

D. Audits: Periodic audits of all facilities will be conducted by EIU for compliance of fingerprint submission and collection of fees. Where it has been found that an employee has left service before the fee was collected, in accordance with the procedures of this directive, EIU will notify the facility (DSA and Steward) and the Director of Budget and Finance of the person that left owing fingerprint fees and how much. The Central Office Division of Budget and Finance will contact the facility to process their end of the JV and forward it to Central Office for processing to move the money into the fingerprint fee account.

E. If suspect information on matters with potential terrorism connections is returned during any inquiry, it shall be forwarded to the local joint terrorism task force or similar agency.

The following **Processing Chart** summarizes the fingerprint processes:

| Staff | Criminal History Inquiry (prior to entry or employment in any DOCCS facility or office) | Who takes fingerprints | When to take fingerprints | What fingerprint card to use | Collect Fee? | Submit to |
|---|---|---|---|---|---|---|
| Correction Officer<br>Parole Officer<br>Parole Officer Trainee<br>Warrant and Transfer Officer<br>Institution Safety Officer | YES | EIU | Pre-Employment Screening | Live Scan | YES ($75 US Postal Money Order) | EIU |
| Non-uniform (civilian) staff<br>Paid Interns | YES | C - Personnel<br>F - ID Officer | Initial date of employment | FBI FD-258 | Payroll Deduct* | EIU |
| Per Diem Employees | YES | C - Personnel<br>F - ID Officer | Initial date of employment | FBI FD-258 | YES ($75 US Postal Money Order) | EIU |
| Outside Agency Staff<br>OMH & DMV Staff | YES | C - Personnel<br>F - ID Officer | First day in facility | FBI FD-258 | $75 Journal Voucher | EIU |
| Extra Service Employees | *YES | C - Personnel<br>F - ID Officer | *Initial date of employment | FBI FD-258 | $75 Journal Voucher | EIU |
| Contract Service Providers<br>Consultants | YES | C - Personnel<br>F - ID Officer | First day in facility | FBI FD-258 | $75 Journal Voucher | EIU |

C = Central Office or Community Supervision Offices

F = Facility

*Extra service employees who are currently permanent employees of DOCCS will not need a criminal history inquiry or fingerprints.

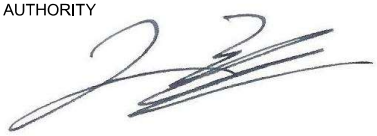
**This Processing Chart continues on the next page.**

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|---|---|---|---|---|---|---|
| Contractor | YES | C - Personnel<br>F - ID Officer | **As determined by Superintendent -or- Regional Director, Division Head, -or- Designee** | FBI FD-258 | $75 Journal Voucher | EIU |
| Information Technology Services (ITS) Employee | NYSP | NYSP | Pre-Employment | N/A | N/A | N/A |

C = Central Office or Community Supervision Offices

F = Facility

** Mandatory where it has been determined that based on the nature of the anticipated work, a contractor will have other than incidental contact with inmates, such as contact with inmates while the contractor is not under direct supervision by security staff (*Direct staff supervision* means that security staff is in the same room with, and within reasonable hearing distance of, the resident or inmate). Also, if the contract provides for six months or more of work, the prospective contractor will be fingerprinted.

| NEW YORK STATE Corrections and Community Supervision<br>**DIRECTIVE** | TITLE<br>**Sexual Abuse Prevention & Intervention - Inmate-on-Inmate** | | NO.<br>4027A<br>DATE<br>11/29/2017 |
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| SUPERSEDES<br>DIR# 4027A Dtd. 03/04/2016 | DISTRIBUTION<br>A B | PAGES<br>PAGE 1 OF 6 | DATE LAST REVISED |
| REFERENCES (Include but are not limited to)<br>Penal Law §240.50, §130, "Standards of Inmate Behavior" Rule Series 101; Prison Rape Elimination Act of 2003 (PREA) 42, U.S.C. 15601 *et seq.*; Directive #0700, 4027B, 4028A; DOCCS Training Manual | APPROVING AUTHORITY<br> | | |

**I. DESCRIPTION**: This Directive provides information concerning:

- The prevention of **inmate-on-inmate** sexual abuse, sexual harassment, and sexual threats;
- The prevention of, detection of, and response to allegations of **inmate-on-inmate** sexual abuse, sexual harassment and sexual threats, including prompt and effective intervention to address the safety and treatment needs of an inmate victim;
- The duty of all staff to report any allegation of sexual abuse or sexual harassment of an inmate, and to report any actual knowledge or reasonable belief concerning any incident of sexual abuse or sexual harassment;
- The duty of staff to report any allegation of retaliation for reporting an incident of sexual abuse or sexual harassment, or for participating in an investigation of an incident of sexual abuse or sexual harassment;
- The prevention of, detection of, and response to allegations of retaliation for reporting an incident of sexual abuse or sexual harassment, or participating in an investigation of an incident of sexual abuse or sexual harassment; and
- The discipline and/or prosecution of those who commit such acts of sexual abuse, sexual harassment, sexual threats, or retaliation.

**II. POLICY**: The New York State Department of Corrections and Community Supervision has zero tolerance for sexual abuse and sexual harassment. Inmates and parolees have the right to be free from sexual abuse and sexual harassment. Sexual abuse and sexual harassment violate Department rules and threaten security. All allegations of sexual abuse, sexual harassment, or retaliation against staff, an inmate, or a parolee for reporting such an incident or participating in an investigation will be thoroughly investigated. Furthermore, any perpetrator of a sexual abuse or sexual harassment incident will be dealt with severely through discipline or prosecution to the fullest extent permitted by law.

It is the policy of the Department that coercive inmate-on-inmate sexual conduct is sexual abuse and is not to be tolerated. All allegations of sexual abuse, sexual harassment, sexual threats, and retaliation concerning such an incident will be thoroughly investigated. Inmate Rule 101.10, "Standards of Inmate Behavior," prohibits inmates from engaging in, or soliciting others to engage in sexual acts. No victim of inmate-on-inmate sexual abuse shall be subject to discipline for engaging in sexual acts as a result of threats, intimidation, or other coercive actions. Other sexual contact and conduct of a sexual nature are also prohibited by rules found in Rule Series 101.

## III. DEFINITIONS

A. Sexual Conduct means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact, and shall have the same meaning as set forth in Penal Law § 130.00.

B. Sexual Contact means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party, and shall have the same meaning as set forth in Penal Law § 130.00.

C. Sexual Abuse includes:

1. Inmate-on-Inmate Sexual Abuse: Inmate-on-Inmate Sexual Abuse is when one or more inmates engage in sexual conduct, including sexual contact, with another inmate against his or her will or by use of threats, intimidation, or other coercive actions. Inmate-on-Inmate Sexual Abuse is a form of "Prison Rape" under the Prison Rape Elimination Act of 2003, (PREA), 42 U.S.C. § 15609.
2. Staff-on-Inmate/Staff-on-Parolee Sexual Abuse: Staff-on-Inmate/Staff-on-Parolee Sexual Abuse is when an employee, volunteer, intern, or outside contractor engages in sexual conduct, including sexual contact, with an inmate or parolee. Staff-on-Inmate Sexual Abuse is a form of "Prison Rape" under PREA.

D. Attempt to Commit Sexual Abuse is when a person engages in conduct that tends to effect the commission of sexual conduct, including sexual contact.

E. Sexual Threat means any spoken, written or other threat to engage in sexual conduct forcibly or against a person's will. A sexual threat is a type of sexual harassment.

F. Sexual Harassment includes:

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
2. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, parolee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

## IV. PROCEDURE

A. Training

1. In accordance with the Department of Corrections and Community Supervision Training Manual, all employees shall receive, during initial training and as in-service training, instruction that relates to the prevention, detection, response, and investigation of sexual abuse and sexual harassment in a correctional environment. Training includes: initial training, refresher training at least every two years, orientation training upon reassignment to another correctional facility, and annual refresher information.
2. All contractors and contract employees, volunteers, and interns shall receive orientation and periodic in-service training consistent with their level of inmate contact relating to the prevention, detection, and response to inmate-on-inmate sexual abuse and sexual harassment.

3. All inmates shall receive during orientation at reception and at facility orientation after transfer, information which addresses sexual abuse and sexual harassment. The information shall be communicated orally and in writing, in a language clearly understood by the inmates. This information will address prevention, self-protection (situation avoidance), reporting sexual abuse, and sexual harassment, and the availability of treatment and counseling.

B. Assessment and Classification

1. Reception: An initial assessment will be conducted of all inmates arriving at a Reception Center.

   a. This assessment is intended to identify a number of classification concerns including a determination of an inmate's risk of being sexually abused by other inmates or sexually abusive toward other inmates. Inmates identified as being at high risk of sexual victimization or of being sexually abusive will be identified, such concerns shall be noted upon the inmate's security classification in accordance with the "Manual for Security Classification Guidelines," and appropriate measures will be taken to ensure that they are monitored.

   b. A PREA Risk Screening (Form #115.41M or Form #115.41F consistent with the gender classification of the facility) will be conducted pursuant to facility-specific procedures adopted in accordance with the Facility Operations Manual (FOM) Template implemented by the Associate Commissioner for Prison Rape Elimination Act (PREA) Compliance.

   c. Counseling services will be available to address concerns associated with a history of sexual victimization and/or a history of sexually aggressive behavior, as appropriate. This assessment will also be considered in assigning an inmate's location. The initial assessment must include a preliminary review by Security, Health Services and Classification staff within 24 hours of an inmate's arrival at the reception facility.

2. Transfer: An inmate's risk of being sexually abused by other inmates or sexually abusive toward other inmates shall be monitored and any specific occurrence or information shall be noted and considered in connection with any transfer.

   a. Upon arrival, each inmate will be screened using PREA Risk Screening Form #115.41M or Form #115.41F for any indication of current risk of being sexually abused by other inmates or sexually abusive toward other inmates.

   b. Such screening shall be conducted pursuant to facility-specific procedures adopted in accordance with the Facility Operations Manual (FOM) Template implemented by the Associate Commissioner for Prison Rape Elimination Act (PREA) Compliance.

C. Reporting and Investigation of Inmate-on-Inmate Sexual Abuse, Sexual Harassment, or Sexual Threats: An inmate or parolee may report an incident of sexual abuse, sexual harassment, sexual threats, or any act of retaliation for reporting such an incident or for participating in an investigation of such an allegation to any employee. The initial inmate or parolee report may be verbal or in writing. For reporting purposes under this Directive, "employee" includes any employee, contractor or contract employee, volunteer, or intern of the Department, or any employee, contractor or contract employee assigned to work in a Department correctional facility by any other State agency.

1. An employee who receives a report that an inmate or parolee, is the victim of an incident of sexual abuse, sexual harassment, or sexual threats must be aware of the sensitive nature of the situation. The victim must be treated with due consideration for the effects of sexual abuse and sexual harassment.
2. Any employee who receives a report of sexual abuse, sexual harassment, sexual threats, or any act of retaliation for reporting such an incident, or for participating in an investigation of such an allegation, shall immediately notify his or her immediate supervisor as outlined below:
    a. Any facility-based employee shall report the information immediately to their supervisor, who shall notify the Watch Commander. In the event the supervisor is not available, the employee shall immediately notify the Watch Commander directly.
    b. Any community-based employee who receives a report involving an inmate or parolee, who is being supervised in the community has a duty to report such information to the Supervising Parole Officer (Bureau Chief) who shall immediately notify the Regional Director. In the event the Supervising Parole Officer (Bureau Chief) is not available, the employee shall immediately notify the Regional Director. In the event the Regional Director is not immediately available, the Assistant Regional Director shall be notified to avoid any delay.
    c. The employee shall report the specific details, in writing, to the Watch Commander or Supervising Parole Officer (Bureau Chief) immediately, or as soon as possible after verbal notification, and no later than the end of the shift.
    d. A medical practitioner who receives such information in the course of providing medical treatment to an inmate is required to report the minimum information necessary as set forth in the Department of Corrections and Community Supervision Health Services Policy Manual (HSPM) 1.60.
    e. Immediate notification shall be made to the Office of Special Investigations in accordance with Directive #4027B, “Sexual Abuse Reporting & Investigation-Inmate-on-Inmate.
3. The Watch Commander shall initiate the sexual abuse protocols in accordance with the facility’s Coordinated Response Plan to an Incident of Inmate Sexual Abuse, including securing the crime scene, where appropriate.
4. Reports of sexual abuse and sexual harassment are confidential and information, including but not limited to the identity of the victim, the identity of the person reporting the sexual abuse or sexual harassment, the identity of witnesses and the identity of the alleged perpetrator, is only to be shared with essential employees involved in the reporting, investigation, discipline and treatment process, or as otherwise required by law.
5. No retaliation of any kind shall be taken against an inmate, parolee, or employee for good faith reporting of sexual abuse, sexual harassment, or sexual threats.

6. A prompt, thorough, and objective investigation shall be conducted in all instances of reported sexual abuse, sexual harassment or retaliation concerning such an incident. As directed herein, and in accordance with Directive #0700, "Office of Special Investigations (OSI)," and other applicable department policies, this investigation shall be initiated promptly and shall be the responsibility of the Office of Special Investigations who shall determine the appropriate investigative response.

NOTE: Allegations of inmate-on-inmate sexual abuse may be reported to appropriate law enforcement officials and/or prosecutors by the Department's Office of Special Investigations. A person is guilty of falsely reporting an incident if it is proven beyond a reasonable doubt that, knowing the information reported, conveyed, or circulated to be false or baseless, he or she reports to a law enforcement officer or agency the alleged occurrence of an offense or incident which did not in fact occur (Penal Law § 240.50). A report made in good faith based upon a reasonable belief that the alleged conduct did occur does not constitute falsely reporting an incident or lying for the purpose of disciplinary action even if investigation does not establish evidence sufficient to substantiate the allegation.

D. Discipline and Prosecution

1. Whenever an employee ascertains facts that an inmate perpetrated an act of inmate-on-inmate sexual abuse, it is the Department's policy to report such incidents on Form #2171, "Inmate Misbehavior Report," and to seek discipline of the aggressor in accordance with the standards of behavior. Furthermore, whenever investigation substantiates an allegation of inmate-on-inmate sexual abuse, the matter shall be referred to the appropriate law enforcement agency and/or prosecutor, through the Department's Office of Special Investigations, for consideration of criminal charges against the aggressor.
2. Whenever an employee ascertains facts that an inmate engaged in sexual harassment or made a sexual threat, it is the Department's policy to report such incidents on Form #2171, 'Inmate Misbehavior Report," and to seek discipline of the aggressor in accordance with the standards of behavior.
3. A victim of sexual abuse, including an inmate or parolee who engages in a sexual act as a result of threats, intimidation, or other coercive actions, is not subject to discipline absent proof of false reporting following a full investigation of the incident and after consultation with the Department's Office of Special Investigations.

## V. STAFF DUTY TO REPORT

A. An inmate or parolee may report an incident of sexual abuse, sexual harassment or an allegation of retaliation concerning such an incident to any employee. The employee shall immediately notify his or her supervisor pursuant to Section IV above. The initial inmate or parolee report may be verbal or in writing.

B. In addition to reporting an allegation of sexual abuse, sexual harassment, sexual threats, or retaliation as reported by an inmate or parolee, all employees, regardless of title, are under a duty to report:

1. Any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not the facility is part of the Agency;
2. Retaliation against inmates, parolees, or staff who reported such an incident; and

3. Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

C. Any employee having either knowledge or a reasonable belief of any sexual abuse, sexual harassment, or threat has a duty to report such information.

1. Any facility-based employee shall report such information immediately to their supervisor, who shall immediately notify the Watch Commander. In the event the supervisor is not available, the employee shall immediately notify the Watch Commander directly.

2. Any community-based employee shall report such information to the Supervising Parole Officer (Bureau Chief) who shall immediately notify the Regional Director. In the event the Supervising Parole Officer (Bureau Chief) is not available, the employee shall immediately notify the Regional Director. In the event the Regional Director is not immediately available, the Assistant Regional Director shall be notified to avoid any delay.

D. Any employee who receives a report of sexual abuse or sexual harassment, or has either knowledge or a reasonable belief of any sexual abuse, sexual conduct, sexual contact, sexual harassment, or any act of retaliation against an inmate, parolee, or employee for reporting an incident of sexual abuse or sexual harassment, or for participating in an investigation involving any of those acts, and who fails to report such information, may be subject to disciplinary action.

| NEW YORK STATE Corrections and Community Supervision<br>**DIRECTIVE** | TITLE<br>**Sexual Abuse Prevention & Intervention - Staff-on-Inmate/Staff-on-Parolee** | | NO.<br>4028A<br>DATE<br>11/29/2017 |
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| SUPERSEDES<br>DIR# 4028A Dtd. 03/04/2016 | DISTRIBUTION<br>A B | PAGES<br>PAGE 1 OF 6 | DATE LAST REVISED |
| REFERENCES (Include but are not limited to)<br>Penal Law §240.50, §130, "Standards of Inmate Behavior" Rule Series 101, Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. 15601 *et seq.*; Directive #0700. 4027A, 4028B, 4910, 6910; DOCCS Training Manual; HSPM 1.60 | APPROVING AUTHORITY<br> | | |

**I. DESCRIPTION**: This Directive provides information concerning:

- The prevention of **staff-on-inmate/staff-on-parolee** sexual abuse, sexual harassment, sexual threats, and staff voyeurism;
- The prevention of, detection of, and response to allegations of **staff-on-inmate/staff-on-parolee** sexual abuse, sexual harassment, sexual threats, and staff voyeurism, including prompt and effective intervention to address the safety and treatment needs of an inmate victim of sexual abuse or sexual harassment;
- The duty of all staff to report any allegation of sexual abuse or sexual harassment of an inmate, and to report any actual knowledge or reasonable belief concerning any incident of sexual abuse, sexual harassment, or the existence of an inappropriate relationship between a staff member and an inmate;
- The duty of staff to report any allegation of retaliation for reporting an incident of sexual abuse or sexual harassment, or participating in an investigation of an incident of sexual abuse or sexual harassment;
- The prevention of, detection of, and response to allegations of retaliation for reporting an incident of sexual abuse or sexual harassment, or participating in an investigation of an incident of sexual abuse or sexual harassment; and
- The discipline and/or prosecution of those who commit such acts of sexual abuse, sexual harassment, sexual threats, staff voyeurism, or retaliation.

**II. POLICY**: The New York State Department of Corrections and Community Supervision has zero tolerance for sexual abuse and sexual harassment. Inmates and parolees have the right to be free from sexual abuse and sexual harassment. Sexual abuse and sexual harassment violate Department rules and threaten security. All allegations of sexual abuse, sexual harassment, or retaliation against staff, an inmate, or a parolee for reporting such an incident or participating in an investigation will be thoroughly investigated. Furthermore, any perpetrator of a sexual abuse or sexual harassment incident will be dealt with severely through discipline or prosecution to the fullest extent permitted by law.

It is the policy of the Department that staff-on-inmate/staff-on-parolee sexual conduct is sexual abuse and is not to be tolerated. Every incident of staff sexual conduct with an inmate or parolee presents a threat to the security of the facility and the Department. All allegations of sexual abuse, sexual harassment, sexual threats, staff voyeurism, or retaliation concerning such an incident will be thoroughly investigated.

Under § 130.05 of NYS Penal Law, an inmate or parolee cannot legally consent to any sexual act with an employee, contract employee, or volunteer (i.e., "staff"). It is a crime for staff to engage in a sexual act with an inmate or parolee. A staff person who engages in sexual conduct, including sexual contact with an inmate or parolee, is guilty of a sex offense even if the inmate or parolee "willingly" participates or manipulates the staff member.

Sexual conduct with a person committed to the custody of the Department is a crime whether it occurs inside a correctional facility, during transportation outside a correctional facility, or while the person is a participant in a temporary release program. Any sexual abuse of an inmate or parolee by a staff member will be prosecuted to the fullest extent of the law.

NOTE: Any incident of sexual assault on staff by an inmate or parolee will be immediately reported to the Office of Special Investigations and handled in accordance with established Department policy for investigation and criminal prosecution of inmates (see Directive #6910, "Criminal Prosecution of Inmates").

## III. DEFINITIONS

A. Sexual Conduct means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact and shall have the same meaning as set forth in Penal Law § 130.00.

B. Sexual Contact means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party, and shall have the same meaning as set forth in Penal Law § 130.00.

NOTE: "Sexual Contact" does not include touching of the intimate parts of another person during the performance of a personal search in accordance with Department procedures as outlined in Directive #4910, "Control of and Search for Contraband," or during a medical examination by health care staff for a proper medical purpose.

C. Sexual Abuse includes:

1. Inmate-on-Inmate Sexual Abuse: Inmate-on-Inmate Sexual Abuse is when one or more inmates engage in sexual conduct, including sexual contact, with another inmate against his or her will or by use of threats, intimidation or other coercive actions. Inmate-on-Inmate Sexual Abuse is a form of "Prison Rape" under the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. § 15609.
2. Staff-on-Inmate/Staff-on-Parolee Sexual Abuse: Staff-on-Inmate/Staff-on-Parolee Sexual Abuse is when an employee, volunteer, intern or outside contractor engages in sexual conduct, including sexual contact, with an inmate or parolee. Staff-on-Inmate Sexual Abuse is a form of "Prison Rape" under PREA.

D. Attempt to Commit Sexual Abuse is when a person engages in conduct that tends to effect the commission of sexual conduct, including sexual contact.

E. Sexual Threat means any spoken, written, or other threat to engage in sexual conduct forcibly or against a person's will. A sexual threat is a type of sexual harassment.

F. Sexual Harassment includes:

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and

2. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, parolee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

G. Staff Voyeurism means the intentional or surreptitious viewing, broadcast or recording of an inmate dressing or undressing or of the sexual or other intimate parts of such inmate for the purpose of sexual arousal or sexual gratification, amusement, entertainment, or profit, or for the purpose of degrading or abusing a person.

NOTE: "Staff Voyeurism" does not include the viewing of the sexual or other intimate parts of another person during a personal search in accordance with Department procedures as outlined in Directive #4910; or inadvertently or accidentally during rounds, while assigned to monitor Department security camera systems, during the performance of other official duties; or during a medical examination by health care staff for a proper medical purpose.

H. Inappropriate relationship means any association with criminals or persons engaged in unlawful activities or any conversation, communication, dealing, transaction, association, or relationship with any inmate, former inmate, parolee or former parolee, or any visitor, friend, or relative of same in any manner or form which is not necessary or proper for the discharge of the employee's duties, and that has not been authorized in accordance with applicable policy.

**IV. PURPOSE**: The purpose of this Directive is to provide guidelines for the prevention, detection, response and investigation of sexual abuse, sexual harassment or sexual threats, or any act of retaliation against an inmate or parolee for reporting such an incident or for participating in an investigation of such an allegation, including prompt and effective intervention to address the safety and treatment needs of a victim of sexual abuse or sexual harassment, and the investigation, discipline and prosecution of the aggressor(s).

## V. PROCEDURE

A. Training

1. In accordance with the Department of Corrections and Community Supervision Training Manual, all employees shall receive, during initial training and as in-service training instruction that relates to the prevention, detection, response, and investigation of sexual abuse and sexual harassment in a correctional environment. Training includes initial training, refresher training at least every two years, orientation training upon reassignment to another correctional facility, and annual refresher information.

2. All contractors and contract employees, volunteers, and interns shall receive orientation and periodic in-service training consistent with their level of inmate contact relating to the prevention, detection, and response to sexual abuse and sexual harassment.

3. All inmates shall receive during orientation at reception, and at facility orientation after transfer, information which addresses sexual abuse and sexual harassment. The information shall be communicated orally and in writing, in a language clearly understood by the inmates. This information will address prevention, self-protection (situation avoidance), reporting sexual abuse and sexual harassment, and the availability of treatment and counseling.

B. Reporting and Investigation of Staff-on-Inmate/Staff-on-Parolee Sexual Abuse, Sexual Harassment or Sexual Threats: An inmate or parolee may report an incident of sexual abuse, sexual harassment, sexual threats, staff voyeurism or any act of retaliation for reporting such an incident or for participating in an investigation of such an allegation to any employee. The initial inmate or parolee report may be verbal or in writing. For reporting purposes under this Directive, "employee" includes any employee, contractor or contract employee, volunteer, or intern of the Department, or any employee, contractor or contract employee assigned to work in a Department correctional facility by any other State agency.

1. An employee who receives a report that an inmate or parolee is the victim of an incident of sexual abuse, sexual harassment, sexual threats, or staff voyeurism must be aware of the sensitive nature of the situation. The victim must be treated with due consideration for the effects of sexual abuse and sexual harassment.
2. Any employee who receives a report of sexual abuse, sexual harassment, sexual threats, staff voyeurism, or any act of retaliation for reporting such an incident or for participating in an investigation of such an allegation shall:
    a. Any facility-based employee shall report the information immediately to their supervisor, who shall immediately notify the Watch Commander. In the event the supervisor is not available, the employee shall immediately notify the Watch Commander directly.
    b. Any community-based employee who receives a report involving an inmate or parolee, who is being supervised in the community has a duty to report such information to the Supervising Parole Officer (Bureau Chief) who shall immediately notify the Regional Director. In the event the Supervising Parole Officer (Bureau Chief) is not available, the employee shall immediately notify the Regional Director. In the event the Regional Director is not immediately available, the Assistant Regional Director shall be notified to avoid any delay.
    c. The employee shall report the specific details, in writing, to the Watch Commander or Supervising Parole Officer (Bureau Chief) immediately or as soon as possible after verbal notification, and no later than the end of the shift.
    d. A medical practitioner who receives such information in the course of providing medical treatment to an inmate is required to report the minimum information necessary as set forth in the Department of Corrections and Community Supervision Health Services Policy Manual (HSPM) 1.60.
    e. Immediate notification shall be made to the Office of Special Investigations in accordance with Directive #4028B, "Sexual Abuse Reporting & Investigation – Staff-on-Inmate/Staff-on-Parolee."
3. The Watch Commander shall initiate the sexual abuse protocols in accordance with the facility's Coordinated Response Plan to an Incident of Inmate Sexual Abuse, including securing the crime scene, where appropriate.
4. Reports of sexual abuse and sexual harassment are confidential and information, including but not limited to the identity of the victim, the identity of the person reporting the sexual abuse or sexual harassment, the identity of witnesses and the identity of the alleged perpetrator, is only to be shared with essential employees involved in the reporting, investigation, discipline, and treatment process, or as otherwise required by law.

5. No retaliation of any kind shall be taken against an inmate, parolee or employee for good faith reporting of sexual abuse, sexual harassment, or sexual threats.

6. A prompt, thorough, and objective investigation shall be conducted in all instances of reported sexual abuse, sexual harassment, inappropriate relationships, and retaliation for reporting such an incident. As directed herein and in accordance with Directive #0700, "Office of Special Investigations (OSI)," and other applicable department policies, this investigation shall be initiated promptly and shall be the responsibility of the Office of Special Investigations who shall determine the appropriate investigative response.

NOTE: Allegations of staff-on-inmate/staff-on-parolee sexual abuse or inappropriate relationships, may be reported to appropriate law enforcement officials and/or prosecutors by the Department's Office of Special Investigations. A person is guilty of falsely reporting an incident if it is proven beyond a reasonable doubt that, knowing the information reported, conveyed, or circulated to be false or baseless, he or she reports to a law enforcement officer or agency the alleged occurrence of an offense or incident which did not in fact occur (Penal Law § 240.50). A report made in good faith based upon a reasonable belief that the alleged conduct did occur does not constitute falsely reporting an incident or lying for the purpose of disciplinary action, even if investigation does not establish evidence sufficient to substantiate the allegation.

C. Discipline and Prosecution: When investigation substantiates an allegation of sexual abuse and/or inappropriate relationships, it is the Department's policy to refer such incident to the appropriate law enforcement agency or prosecutor, through the Department's Office of Special Investigations, for consideration of criminal charges. Any conduct constituting sexual abuse, sexual harassment, staff voyeurism, inappropriate relationships or any act of retaliation against an inmate, parolee, or employee for reporting an incident of sexual abuse, sexual harassment, staff voyeurism, inappropriate relationships, or for participating in an investigation involving any of those acts may be the basis for disciplinary action whether or not prosecution or a conviction results.

## VI. STAFF DUTY TO REPORT

A. An inmate or parolee may report an incident of sexual abuse, sexual harassment, sexual threats, or an allegation of retaliation concerning such an incident to any employee. The employee shall immediately notify his or her supervisor pursuant to Section V above. The initial inmate or parolee report may be verbal or in writing.

B. In addition to reporting an allegation of sexual abuse, sexual harassment, sexual threats, or retaliation as reported by an inmate or parolee, all employees, regardless of title, are under a duty to report:

1. Any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not the facility is part of the Agency including:

   a. Any sexual conduct (sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact) between another employee and an inmate or parolee;

   b. Any inappropriate relationship between another employee and an inmate or parolee;

   c. Any act of staff voyeurism; or

d. Any allegation of retaliation for reporting an incident of sexual abuse, or for participating in an investigation of an allegation of sexual abuse.

2. Retaliation against inmates, parolees, or staff who reported such an incident; and

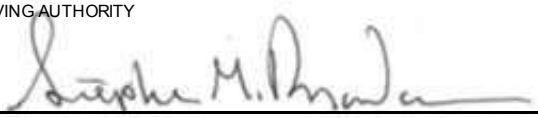
3. Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

C. Any employee having either knowledge or a reasonable belief of any sexual abuse or sexual conduct, including sexual contact, taking place or having taken place between any employee and an inmate or parolee, sexual harassment, any inappropriate relationship between any employee and an inmate or parolee, or any act of staff voyeurism has a duty to report such information.

1. Any facility-based employee shall report such information to their supervisor, who shall immediately notify the Watch Commander. In the event the supervisor is not available, the employee shall immediately notify the Watch Commander directly.

2. Any community-based employee shall report such information to the Supervising Parole Officer (Bureau Chief) who shall immediately notify the Regional Director. In the event the Supervising Parole Officer (Bureau Chief) is not available, the employee shall immediately notify the Regional Director. In the event the Regional Director is not immediately available, the Assistant Regional Director shall be notified to avoid any delay.

D. Any employee who receives a report of sexual abuse or sexual harassment, or has either knowledge or a reasonable belief of any sexual abuse, sexual conduct, sexual contact, sexual harassment, inappropriate relationship or staff voyeurism between an employee and an inmate or parolee, or any act of retaliation against an inmate, parolee, or employee for reporting an incident of sexual abuse, sexual harassment, staff voyeurism, inappropriate relationship, or for participating in an investigation involving any of those acts, and who fails to report such information, may be subject to disciplinary action.

| NEW YORK STATE Corrections and Community Supervision<br>**DIRECTIVE** | TITLE<br>**Hazardous Waste Management** | | NO.<br>4055<br>DATE<br>07/08/2020 |
|---|---|---|---|
| SUPERSEDES<br>DIR# 4055 Dtd. 04/24/19 | DISTRIBUTION<br>A | PAGES<br>PAGE 1 OF 10 | DATE LAST REVISED |
| REFERENCES (Include but are not limited to)<br>See Section II | APPROVING AUTHORITY<br> | | |

**I. POLICY**: The Department of Corrections and Community Supervision (DOCCS) shall comply with Environmental Conservation Law, Article 27 - Title 9, "Industrial Hazardous Waste Management," and its implementing regulations, 6 NYCRR Parts 371, 372, and 374-3.

It is the policy of the Department not to exceed, at any facility, the generation or storage specifications established by the Department of Environmental Conservation (DEC), which identify "Small Quantity Generators." In most situations, facilities should fall into the Conditionally Exempt Small Quantity Generators category (defined below).

## II. REFERENCES

- Environmental Conservation Law, Article 27 – Title 9, "Industrial Hazardous Waste Management"
- 6 NYCRR Chapter IV, Subchapter B Parts 371, 372, and 374-3
- US Department of Transportation Regulations
- ACA Expected Practice 2-CO-4D-01
- Directives #2121 & #4067
- DOCCS Division of Health Services Policy Manual, Item #7.8
- DOCCS Red Book, Section I
- EPA "RCRA Subtitle C Site Identification Form" (Form 8700-12 instruction package)
- Environmental Protection Agency (EPA) Hazardous Waste Website: http://www.epa.gov/osw/hazard/
- DEC Hazardous Waste Website: http://www.dec.ny.gov/chemical/8486.html

## III. DEFINITIONS

A. Hazardous Waste: Any waste or combination of wastes which, because of its quantity, concentration, or physical or chemical characteristics, may:

1. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

NOTE: Infectious waste is not covered by this directive; see Division of Health Services Policy Manual, Item #7.8.

NOTE: See 6 NYCRR Part 371, "Identification and Listing of Hazardous Wastes," for complete listing of hazardous wastes as defined by DEC.

B. Acutely Hazardous Wastes: Extremely dangerous wastes such as used cyanide, strychnine, or dioxin compounds.

C. Universal Waste: Any of the following hazardous wastes that are subject to the following universal waste requirements:

1. Batteries: all rechargeable batteries, vehicle batteries, flashlight batteries, etc.;
2. Pesticides;
3. Mercury-Containing Equipment: a device or part of a device (including thermostats but excluding batteries and lamps) that contain elemental mercury integral to its function; and
4. Lamps: including but not limited to fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

D. Hazardous Waste Generation: The act or process of producing hazardous waste.

E. Hazardous Waste Management: The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

F. Manifest: The form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

G. Conditionally Exempt Small Quantity Generator: A facility that generates less than 220 pounds of hazardous waste, or no more than 2.2 pounds of acutely hazardous waste, per month. These generators may not store on-site more than a total of 2,200 pounds of hazardous waste at any time. Conditionally Exempt Small Quantity Generators must ensure that hazardous waste is delivered to a person or facility that is authorized to manage it.

H. Small Quantity Generator: A facility which generates between 220 and 2,200 pounds of hazardous waste, or no more than 2.2 pounds of acutely hazardous waste, per month. These generators may not store on-site more than a total of 13,200 pounds of hazardous waste at any time. Typically, one 55 gallon drum of hazardous waste equals about 440 pounds. If unsure whether the generated waste exceeds the Small Quantity Generator threshold, the waste should be weighted to accurately determine the quantity. A Small Quantity Generator must meet **all** the following conditions:

1. Generate more than 220 pounds but less than 2,200 pounds per month of hazardous waste;
2. Generate less than 2.2 pounds per month of acutely hazardous waste;
3. Store less than 13,200 pounds of hazardous waste;
4. Store less than 2.2 pounds of acutely hazardous waste; and
5. Store less than 11,000 pounds of universal waste.

I. Episodic Hazardous Waste Generation: Non-typical and predictable waste generation. For example, housekeeping disposal of materials/chemicals or a spill cleanup. An episodic hazardous waste generation event has the potential to raise a facility's generator status only for the month in which it occurs.

**IV. RESPONSIBILITY**: At each facility, the Plant Superintendent (or functional equivalent if none assigned) and the Industrial Superintendent (if assigned) shall be responsible for management of hazardous wastes generated by activities or accumulated within areas of their functional responsibility. At the end of each month, the quantity and classification of hazardous waste generated over the previous 30 days shall be assessed to determine whether the facility is a Conditionally Exempt Small Quantity Generator, a Small Quantity Generator, or a greater than Small Quantity Generator. Hazardous waste generated from any facility construction project, including waste generated from a construction contractor, must be accounted for in quantity assessment. If a previous Conditionally Exempt Small Quantity Generator produces Small Quantity level Hazardous Waste quantities over a one month period, it shall follow all the requirements of a Small Quantity Generator described herein. If in the next successive month, or any month thereafter, generation quantities recede to levels below the Small Quantity Generator threshold, rules for a Conditionally Exempt Small Quantity Generator may be reapplied.

## V. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

A. Hazardous Waste Determination: Each facility must determine if it generates or accumulates any hazardous wastes. A waste is hazardous if it is listed in 6 NYCRR Part 371. Even if it is not listed, it is still considered to be hazardous if it has one or more of the following characteristics:

1. Ignitability: It catches fire easily. Ignitable wastes include many organic solvents and some paint wastes and strong oxidizing agents. A liquid waste is ignitable if it has a flash point of less that 60$^{o}$C (140$^{o}$F);
2. Corrosivity: It dissolves metals and other materials, or it burns the skin. Corrosive wastes include waste rust removers, waste acid or alkaline cleaning fluids, and waste battery acid. Any liquid that has a pH of 2.0 or lower, or 12.5 or higher is corrosive;
3. Reactivity: It undergoes violent chemical reaction with water. Reactive wastes include those which generate toxic gases or fumes; and
4. TCLP – Toxicity: A waste sample is tested and shows toxicity by utilizing the Toxicity Characteristic Leaching Procedure (TCLP). TCLP toxic wastes contain high concentrations of heavy metals such as mercury, cadmium, lead, or certain pesticides that could contaminate groundwater, as well as a number of volatile or semi-volatile compounds. This type of testing must be performed by a certified environmental laboratory.

A list of hazardous wastes and acute hazardous wastes has been prepared by DEC and published in 6 NYCRR Part 371. Questions regarding the identification and characteristics of certain materials may be addressed, as appropriate, to the Divisions of Industries, Support Operations, Facilities Planning and Development, or Health Services, the Office of Counsel, the Departmental Fire/Safety Coordinator, and the NYS Division of Environmental Conservation (contact nearest Regional Office, or DEC's "Small Quantity Generator Hotline," 800-462-6553).

B. Counting Hazardous Wastes: Each facility must count all quantities of "listed" and "characteristic" hazardous wastes (as described above) that:

1. Accumulate on-site for any period of time prior to subsequent management;
2. Are packaged and transported off-site; and

3. Are generated as still bottoms or sludges and removed from product storage tanks.

It is not necessary to count used oil that will be reclaimed, or residues left in the bottom of emptied product containers or storage tanks.

C. EPA Identification Numbers: Small Quantity Generators must obtain an EPA identification number. Conditionally Exempt Small Quantity Generators do not require an EPA identification number. Each facility with an industrial operation meeting or exceeding the thresholds of a Small Quantity Generator will obtain a separate number for industrial hazardous wastes. A Small Quantity Generator facility must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received a twelve-character EPA identification number, nor contract for the management of such wastes with any other party that does not have an EPA identification number. To obtain an EPA identification number, request an application through the EPA Region II Office in New York City, 212-637-4106. Contact Facilities Planning and Development to determine whether an EPA identification number exists for a particular facility.

The EPA will respond by sending a three-page form, "RCRA Subtitle C Site Identification Form." To complete this form, hazardous wastes must be identified by four-character EPA Hazardous Waste Numbers. For assistance in matching wastes and EPA numbers, contact DEC's Manifest Section, 518-402-8738.

Beginning in 2021, and every four years thereafter, all Small Quantity Generators must submit EPA Form #8700-12 "RCRA Subtitle C Site Identification Form" by September 1st of each year in which re-notification is required.

D. Inventory Control: Each facility must maintain a perpetual inventory of all hazardous wastes. The facility inventory must include the following (see sample Form #2079, "Hazardous Waste Inventory Record"):

1. Identification of the waste by container, as labeled;
2. The date of generation or the beginning accumulation date for a specific container;
3. A description of the container and its location;
4. The date a particular container is sealed or the ending accumulation date;
5. The weight of the container;
6. EPA number (if a Small Quantity Generator); and
7. The manifest document number, when disposed (if a Small Quantity Generator).

E. Accumulation Limits: A Conditionally Exempt Small Quantity Generator may store up to 2,200 pounds of non-acute hazardous waste on-site at any time and may store such quantity on-site indefinitely. A Small Quantity Generator facility may store up to 13,200 pounds of non-acute hazardous waste on-site for up to 180 days or for up to 270 days if the waste must be shipped to a treatment, storage, or disposal site that is located over 200 miles away.
A facility may store no more than 2.2 pounds of acutely hazardous waste on-site for any length of time. A facility may store no more than 11,000 pounds of universal waste for no longer than one year from the date the universal waste is generated.

F. Storage Requirements

1. Clearly mark the containers with the words “Hazardous Waste” and with words that identify the hazards of the contents of the containers (e.g., DOT label, GHS pictogram, NFPA symbol). See Attachment A for example labels.
2. Keep containers in good condition, handle them carefully, and replace any leaking ones.
3. Do not fill a container if it may cause rupture, leaks, corrosion, or other failure.
4. Keep containers closed except when filling or emptying them.
5. Inspect containers for leaks and corrosion every week; an inspection log must be kept, recording such weekly inspections, certifying the condition of all storage containers, and including the signature of the inspector(s) and dates of inspections.
6. Separate and protect reactive or ignitable wastes from sources of ignition or reaction.
7. Ensure that the waste being placed in a container will not react with the container itself or with any residue in the container.
8. Never store in the same container wastes that could react together to cause fire, leaks, or other releases.
9. Separate by a dike, berm, wall, or other device containers of waste which are incompatible with containers of other waste stored nearby.
10. Do not fill an uncovered storage tank higher than within 2 feet of the top; inspect level daily.
11. Where hazardous waste is continuously fed into a storage tank, the tank must be equipped with a means to stop the inflow such as a waste feed cut-off system or a by-pass system to a stand-by tank; inspect discharge control equipment daily.
12. Gather data from monitoring equipment once each day to ensure a storage tank is operating as designed.
13. Demonstrate the length of time that the universal waste has been accumulated from the date it becomes waste or is received by one of the procedures described below:
    a. Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
    b. Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
    c. Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;
    d. Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received; and
    e. Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received.

14. Label or mark universal waste on each item or on the containers in which they are segregated and stored, as follows:
    a. Universal waste: batteries, waste batteries, or used batteries;
    b. Universal waste: pesticides or waste pesticides;
    c. Universal waste: mercury thermostats, waste mercury thermostats, or used mercury thermostats; and
    d. Universal waste: lamps, waste lamps, or used lamps.

G. Emergency Coordinator/Emergency Response: The following guidelines are pertinent to Small Quantity Generators only.

The facility supervisory staff person(s) having immediate control of the process(es) generating hazardous waste(s) is/are designated as "Emergency Coordinator(s)" and must be on call at all times to coordinate emergency response measures. Emergency Coordinator(s) and phone number(s) must be readily available to the Superintendent, Watch Commander, and the Fire & Safety Officer (refer to Red Book, Sec. 1). These Emergency Coordinators shall develop procedures to respond to emergencies such as fire, spillage, and clean-up of contamination within their areas of responsibility.

In the event of an emergency threatening public health or when a spill has reached surface water, the facility must immediately notify the National Response Center (800-424-8802) and DEC (518-457-7362) with the following information:

1. Facility name, address, and EPA identification number;
2. The date, time, and type of incident;
3. The quantity and type of hazardous waste involved;
4. The extent of injuries, if any; and
5. The estimated quantity and disposition of recovered materials.

H. Training: The following guidelines are pertinent to Small Quantity Generators only. Employees responsible for control and coordination of hazardous waste management shall receive initial training and annual refresher training commensurate with the materials they are handling. Training requirements are specified in 6 NYCRR Part 372.2(a)(8)(iii)('e')('3'), which states that the generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

**VI. OFF-SITE DISPOSAL/MANIFEST REQUIREMENTS**: The following guidelines are pertinent to Small Quantity Generator only.

A. Each facility which transports, or offers for transportation, hazardous waste must prepare a Hazardous Waste Manifest. The manifest is a paper document containing multiple copies of a single form. When completed, it contains information on the type and quantity of the waste being transported, instructions for handling the waste, and signature lines for all parties involved in the disposal process. The manifest is required by both the Department of Transportation (DOT) and the EPA. Each party that handles the waste signs the manifest and retains a copy for themselves. This ensures critical accountability in the transportation and disposal processes.
Once the waste reaches its destination, the receiving facility returns a signed copy of the manifest to the generator, confirming that the waste has been received by the designated facility.

The hazardous waste manifest will typically be supplied by the licensed hauler or the disposal facility (only EPA approved registrants may supply the hazardous waste manifest). For a list of the manifest registry, go to: www.epa.gov/epawaste/hazard/transportation/manifest/registry/index.htm.

B. A recommended way to select a waste transporter and Treatment/Storage/Disposal Facility (TSDF) is to contact the Waste Transporter Permits Section at DEC (518-402-8707). DEC will provide a computer-generated listing of transporters and facilities.

Before transporting or offering for transportation offsite, a hazardous waste generator must package, label, and mark hazardous waste in accordance with applicable U.S. Department of Transportation Regulations.

A Small Quantity Generator must mark each container 119 gallons or less used in such transportation with the following words and information:

**HAZARDOUS WASTE – Federal Law Prohibits Improper Disposal**: If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address: _____ (Facility Name):_____

Generator's EPA Identification Number: _____

Manifest Tracking Number: _____

EPA Waste Code: _____

The markings must be durable, in English, and printed on or affixed to the surface of a package or on a label, tag, or sign. The markings must be displayed on a background of sharply contrasting color, un-obscured by labels or attachments, and must be located away from any other marking (such as advertising) that could substantially reduce its effectiveness.

To determine labeling requirements for specific wastes, contact DEC, the designated transporter, or the TSDF.

C. Prior to shipment, the hazardous waste generator must obtain written confirmation from the designated treatment, storage, or disposal facility that it:

1. Is authorized to receive shipment;
2. Has the capacity; and
3. Will provide or assure that the ultimate disposal method is followed for the particular hazardous waste on the manifest.

D. Prior to shipment, the hazardous waste generator must obtain written confirmation from the designated transporter(s) that they are authorized to deliver the manifested waste to the designated treatment, storage, or disposal facility.

E. Prior to shipment, the hazardous waste generator must instruct the transporter to contact it for alternate authorization in the event that an emergency prevents delivery at the designated TSDF. In such cases, the hazardous waste generator must make and confirm new arrangements orally, and then follow-up with a second manifest for any subsequent disposal site. In addition, an exception report must be sent to DEC concerning disposition of the first manifest.

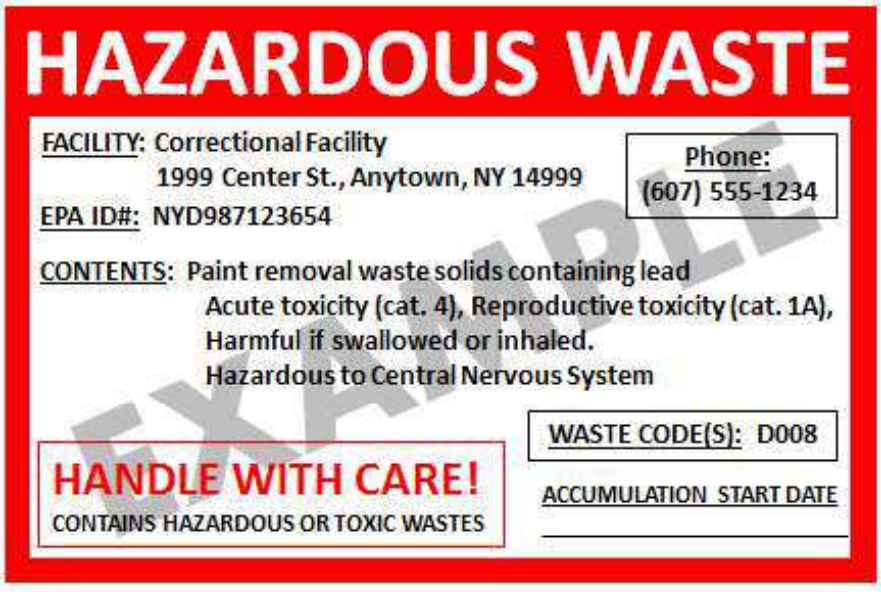
F. If a hazardous waste generator does not receive a return copy of the manifest within 15 days from a designated hazardous waste management facility to which it has shipped wastes, it must contact the transporter and/or disposal facility to find out why. The hazardous waste generator is potentially liable for any mismanagement of its hazardous waste transported off-site.

**VII. HAZARDOUS WASTE GENERATION IN EXCESS OF SMALL QUANTITY GENERATOR LEVELS**: If a facility exceeds the generation threshold of a Small Quantity Generator (defined above), it shall immediately contact Facilities Planning and Development for further guidance. Large Quantity Generators are required to submit an Annual Report to DEC by March 1st each year and a Biennial Report to EPA by March 1st of each even numbered year and are subject to other heightened levels of regulatory compliance. As stated earlier in this directive, it is the policy of the Department not to exceed, at any facility, the generation or storage specifications established by the DEC which identify "Small Quantity Generators."

Small Quantity Generators and Conditionally Exempt Small Quantity Generators may maintain their existing generator status during an episodic hazardous waste generation event (as defined in Section III) that exceeds 1,000 kg in a month.

## Example Labels



## Example NFPA Diamond




## Example DOT Label




## Example GHS Pictograms



| NEW YORK STATE Corrections and Community Supervision<br>**DIRECTIVE** | TITLE<br>**Volunteer Services Program** | | NO.<br>4750<br>DATE<br>01/14/2019 |
|---|---|---|---|
| SUPERSEDES<br>DIR# 4750 Dtd. 02/08/16 | DISTRIBUTION<br>A B | PAGES<br>PAGE 1 OF 14 | DATE LAST REVISED |
| REFERENCES (Include but are not limited to)<br>See Section III | APPROVING AUTHORITY | | |

**I. PURPOSE**: This directive establishes Department of Corrections and Community Supervision (DOCCS) policies and procedures for the administration and supervision of the Volunteer Services Program.

**II. PROGRAM GOALS**: The Volunteer Services Program is designed to promote the involvement of responsible community persons in the continuum of services and programs made available to the incarcerated inmate and his or her family.

**III. REFERENCES**

- Penal Law §130.05
- Public Officers Law, Section 17
- Executive Order No. 6
- DOCCS Directives #2208B, #2601, #4027A, #4028A, #4065, #4322, #4403, #4423
- Program Services Manual
- DOCCS Training Manual
- ACA Expected Practices
  - ACI: 4-4005, 4-4115, 4-4116, 4-4117, 4-4118, 4-4119, 4-4120, 4-4122, 4-4391, 4-4392, 4-4431, 4-4519
  - APA: 1058
  - 2CO: 1B-11, 1G-01, 1G-02, 1G-03, 1G-04, 1G-05, 1G-06, 1G-07, 1G-08, 1G-09, 1G-10, 5E-01
  - 4-APPFS: 1C04, 1C-05, 1C-06, 1C-07, 3A-02, 3A-12, 3D-16

**IV. PROGRAM ADMINISTRATION AND SUPERVISION**

A. The Director of Ministerial, Family and Volunteer Services is responsible for the administration of the Statewide Volunteer Services Program.

B. The Assistant Director of Ministerial, Family and Volunteer Services reports to the Director of Ministerial, Family and Volunteer Services, and is responsible for the day-to-day administration of Volunteer Services. The Assistant Director supervises the Regional Coordinators of Correctional Volunteers Services (RCCVS).

C. RCCVS provides policy direction and serves as the liaison between Central Office and facility staff. They are program consultants to the Deputy Superintendents for Program Services (DSP), Supervisors of Correctional Facility Volunteer Services (SCFVS), facility staff, community groups, and organizations. They are also responsible for the review of Volunteer Services purchase requests and for monitoring the Volunteer Services Program in their regions.

D. Facility Superintendents must review each new request for a volunteer, volunteer group, or volunteer program.

E. DSPs are responsible for the overall management of their facility's Volunteer Services Program and for the activity of the individual assigned as the Volunteer Services Contact Person (VSCP), as well as the Volunteer Staff Supervisors (VSS) who supervise volunteer programs. They assist the SCFVS in identifying Volunteer Services' needs and assure that all required Volunteer Services' reports are submitted in a timely manner. With the SCFVS, they review all applicants with previous convictions and ensure that all volunteers are properly registered. The DSPs are also responsible for ensuring that a current and complete list of active volunteers and volunteer programs is maintained at their facility.

NOTE: The DSP, at a facility where a SCFVS is based, is responsible for the day-to-day supervision of that SCFVS, together with the RCCVS, as well as ensuring that the SCFVS provides adequate, scheduled service to their assigned facilities.

F. The SCFVS, under the direction of a RCCVS and a DSP, recruits and orients community persons and staff to work as volunteers in a correctional setting. They are also responsible for the completion of the annual "Volunteer Services Program Evaluation," Form #MFVS3085, at each of their assigned facilities and for promoting effective relations between volunteers and staff. They are responsible for training and support of the facility VSCP. They may assist in community/public relations, if so designated by their Superintendent.

G. The VSCP, appointed by the Superintendent, will be responsible for the coordination of the Volunteer Services Program at each facility. Tasks will include, but not necessarily be limited to: the maintenance, care, and security of volunteer files; the processing of applications; the preparation of Volunteer Services' gate clearances; and the statistical gathering for monthly reports that will need to be reviewed and approved by the DSP. For purposes of supervision, they will report to the DSP and a SCFVS. Their annual performance evaluation should reflect their additional duties as the facility VSCP, with input provided by the SCFVS.

H. VSSs are responsible for conducting screening interviews using Form #MFVS3082, "Report of Interview of Volunteer Applicant," with potential volunteers who apply to provide a service in their respective program area. They are also responsible for the training and direct supervision of these volunteers and for providing annual volunteer reviews, using Form #MFVS3086, "Volunteer Feedback & Assessment," to the SCFVS for all of their volunteers who provide a service to the facility on a regular basis. They should not supervise more than 40 volunteers.

## V. TYPES OF VOLUNTEERS

A. Volunteer: A volunteer is a person who is authorized to provide a service to the Department or its inmates without compensation from any source. A volunteer is required to comply with the rules, regulations, and guidelines required of Department employees and its volunteers. The Department makes no representations to volunteers about the applicability of either Workers' Compensation benefits or representation and indemnification under the Public Officers Law.

Inquiries should be directed to either the Workers' Compensation Board Bureau of Compliance or to the Office of the Attorney General. A volunteer is subject to all of the policies and procedures as referenced in Section X of this directive and in Form #4750C, "Standards of Conduct for Volunteers Within the New York State Department of Corrections and Community Supervision." Volunteers are expected to support the Departmental Mission and are not to portray the Department in a negative fashion.

1. Paid Professional: This category of volunteer often represents his or her employer and provides a service to the Department. These individuals, though paid by their employer to provide the service, are defined as volunteers and registration, orientation, and TB testing requirements are the same as for regular volunteers.

   Volunteers providing professional services will be required to provide documentation that they are certified, licensed, and/or otherwise qualified to provide the service for which they are applying.

2. Department Personnel: Department personnel may provide a volunteer service if that service is clearly different from their paid work assignment and it has been approved by the Superintendent and the DSP at the facility where the employee works.

   NOTE: Former employees who have been terminated, or who have resigned rather than face dismissal, will not be allowed to volunteer.

3. Foreign National: A foreign national will be considered for volunteer programs provided they can produce valid identification and documentation that they are in this country legally.

4. Religious Volunteer and Spiritual Advisor: All volunteers requesting involvement in religious programs must be reviewed and approved by the Coordinating Chaplain and appropriate Chaplain of the faith group involved, if one is assigned to the facility. As outlined in Section IV-H, the appropriate Chaplain must also conduct a screening interview with the prospective volunteer and document this interview, which will be placed in the volunteer's file. If the volunteer represents a religious organization from the community, but is to be assigned to a non-religious assignment, approval by the facility Coordinating Chaplain and appropriate Chaplain of the faith group is not required. Volunteers representing religious organizations must be advised not to proselytize (attempt to persuade someone to convert to one's faith) among inmates.

   A Spiritual Advisor is an individual who, with the written endorsement of a bona fide ecclesiastical body, has been identified as a religious volunteer capable of providing spiritual advice and direction to inmates of that particular faith group on an individual basis.

   Spiritual Advisors who have obtained volunteer status approval from the Department must request an exemption from the prohibition concerning visitation, correspondence, and phone calls from inmates as outlined in Section V-C-4-b of this directive. In addition, the following procedures must be followed:

   a. Provide documentation to the Coordinating Chaplain stating that a pastoral relationship with the inmate(s) existed prior to incarceration.

b. Provide written endorsement from a bona fide ecclesiastical body identifying the volunteer as a cleric or lay person who can function in this capacity.

c. Provide the Coordinating Chaplain with a written description of the volunteer's activities in the role of Spiritual Advisor, including a list of the names of inmates who will meet with the volunteer. This description must be reviewed by the Chaplain in charge of the faith group involved.

It shall be the responsibility of the Coordinating Chaplain to obtain these documents prior to commencement of an inmate-Spiritual Advisor relationship and maintain said documents for the duration of said service.

5. Persons with Criminal History: Volunteer applicants with an arrest and/or conviction history shall not be automatically disqualified to serve. Each applicant shall be evaluated on a case-by-case basis. As a rule, the following will apply:

a. Prospective volunteers with unclear arrest dispositions, active warrants, detainers, or Orders of Protection that are found through their criminal history check may be excluded from volunteering until such incidents are resolved.

b. A formerly-incarcerated person or parolee may be considered for a volunteer assignment in a facility one year following his or her release from incarceration.

c. A formerly-incarcerated person shall not be considered as a volunteer if he or she was prosecuted and found guilty, in a court of law, of assault of correctional staff, aggravated harassment of an employee, attempted escape from a correctional facility, promoting or possessing prison contraband, hostage incident, or rioting.

d. A formerly-incarcerated person's record of institutional adjustment and, if applicable, adjustment to probation or parole supervision, will be evaluated and considered prior to approval. Disciplinary sanctions similar to behavior actions listed in Section V-A-5-c, or in addition, being found guilty of behavior such as assault on inmates, gang-related behavior, mass demonstration or radicalization of other inmates, sexual misconduct, etc., may exclude an individual from consideration.

e. During the period after release, the formerly-incarcerated person shall have demonstrated involvement in community activities related to the area in which he or she wishes to serve as a volunteer. The person will also be required to show a positive adjustment to community life by providing employment history and a recommendation by his or her Probation/Parole Officer, if applicable.

A review by the SCFVS and the facility DSP will be conducted on all formerly-incarcerated persons, parolees, probationers, and persons with warrants, detainers, Orders of Protection, and open arrests who apply as volunteers. Final approval will rest with the facility Superintendent. Exception to this policy will be given consideration only when substantial, written justification is submitted to the Superintendent or designee.

6. One-Time Volunteer: Individuals who provide a service for special one-time activities, including inmate organization events, family day events, sports activities, theatrical performances, graduations, religious observances, etc., are to be registered as one-time volunteers.

   NOTE: One-time refers to only one time in any NYS DOCCS facility (see Form #4750B, "Volunteer Registration Process Chart," for requirements).

   Form #MFVS3080A, "Application for One-Time Volunteer Status," must be utilized for one-time volunteers. Subsequent service to a NYS DOCCS facility must be processed as either an occasional or a regular ongoing volunteer utilizing Form #MFVS3080, "Application for Volunteer Status."

7. Occasional Volunteer: Individuals who provide services periodically (six times or fewer per year in a combination of facilities) for Choir/Theatrical Performances, Sports Teams, Resource Fairs, Academic Guest Lecturers, and one-day attendance (eight hours or fewer) at Religious Events (see Form #4750B for requirements). Approvals for other groups may be obtained by contacting the appropriate RCCVS.

B. Volunteer Groups: Individuals who enter a facility as part of a community group must individually complete the registration process, unless verification is received that the individual has been registered at another DOCCS facility within the past 12 months.

1. All volunteer groups or organizations must have a Key Volunteer or Program Director, who acts as the designated contact, and the name of this person will be provided to the SCFVS.
2. The Key Volunteer or Program Director shall assist staff in the screening and selection of volunteers who will provide services under the organization's auspices by completing a letter of endorsement for each new volunteer. This letter is to be done on the agency's letterhead and should follow the format provided on Form #4750A, "Volunteer Endorsement Letter." The Superintendent or designee shall have final approval for all volunteers.
3. Any literature or other materials sponsored by the group or organization must be approved in advance by the DSP or designee before distribution to inmates. Material approvals will be subject to a determination of appropriateness. Once the DSP has approved the materials, they should be placed on the gate clearance.
4. Some community groups celebrate special events with food and beverage; however, in the correctional setting, volunteers and staff are prohibited from bringing in food and beverage items, except for their personal consumption during the time they are in the facility. On occasion, the DSP will review and approve a request for a special event (i.e., Kairos Retreat, Residents Encounter Christ (REC), Graduations) and if approved, items will be ordered from the Statewide menu.

C. Volunteer Requirements

1. Under normal circumstances, the minimum age for a volunteer is 21.
   a. Exceptions can be made with special approval from the Superintendent for persons ages 17-20 for special one-time programs, as described in Section V-A-6, or for participants in internship programs or youth employment programs.

With regard to internships, all colleges must provide internship paperwork and description of activities.

b. Volunteers who are 17 or 18 years of age must provide written permission from their parent or legal guardian.

c. If approved, volunteers under the age of 21 must be under direct supervision of DOCCS staff at all times while inside the facility.

2. All volunteers providing professional services will require additional screening to ensure that they are certified, licensed, and/or otherwise qualified to provide such services.

3. A volunteer may be turned away from the facility if their manner of dress or appearance causes security or other pertinent concerns. Volunteers must adhere to the dress code outlined in Directive #4403, "Inmate Visitor Program." If turned away for one's dress or appearance, this action should be documented for inclusion in the volunteer's file. Regarding grooming, a male volunteer shall not be subject to the same restrictions on hair length or beards as Department employees.

4. Restrictions: During orientation, volunteers must be cautioned regarding the seriousness of personal/emotional involvement with inmates. This will include visiting, corresponding, and accepting phone calls. In order to avoid any misunderstanding, the following guidelines must be strictly observed:

a. Volunteers are prohibited from having any sexual contact or engaging in any sexual conduct with an inmate. DOCCS has a zero tolerance policy for sexual abuse. It is a crime for any employee to engage in sexual conduct or sexual contact with an inmate. For purposes of Penal Law §130.05, an employee also includes any person providing direct services to inmates in a State correctional facility pursuant to a contractual arrangement with the Department or, in the case of a volunteer, a written agreement with the Department.

All volunteer applicants will read the most updated version of the Policy on the Prevention of Sexual Abuse of Inmates. All volunteers are to be provided with training on Directives #4027A, "Sexual Abuse Prevention & Intervention - Inmate-on-Inmate," and #4028A, "Sexual Abuse Prevention & Intervention - Staff-on-Inmate/Staff-on-Parolee." All volunteer applicants must acknowledge receipt in writing that they will be held accountable for and act in accordance with the policy and the law. All volunteer applicants must acknowledge that they understand the Department's zero tolerance policy regarding sexual abuse and sexual harassment and how to report such incidents under DOCCS' sexual abuse and sexual harassment prevention, detection, and response policies and procedures.

b. Volunteers are prohibited from corresponding with, visiting with, or accepting telephone calls from inmates at any DOCCS facility unless they receive permission. If a volunteer wishes to seek approval, the volunteer must submit the request and rationale, in writing, to the Superintendent at the facility where he or she is a volunteer. The Superintendent is authorized to deny such requests. The denial should be sent, in writing, to the volunteer and a copy sent to the Director of Ministerial, Family and Volunteer Services.

If the Superintendent supports the request, it should be forwarded to the Director of Ministerial, Family and Volunteer Services for recommendation; after which, it will be forwarded to the Deputy Commissioner for Program Services for final determination.

Prospective volunteers should be asked to disclose whether or not they have any close friends or family members who are incarcerated within the State correctional system at the time of their application/screening.

c. Exceptions: Volunteers may accept collect phone calls at their agency/group administrative office if they have prior authorization from the Deputy Commissioner for Program Services and if the organization's policy is to accept collect phone calls from inmates. Volunteers may not accept phone calls at their place of residence. At all times, the nature of the calls must be directly related to areas of service provided by the volunteer agency/group for the Department. The volunteer agency/group authorization must be so noted in the appropriate program description file. Volunteers are to be advised that all inmate telephone conversations are subject to electronic monitoring by Department personnel (see Directive #4423, "Inmate Telephone Calls").

d. Volunteers are required to notify the SCFVS if they know and/or recognize any inmate incarcerated at any of NYS DOCCS' facilities.

## VI. PROCEDURES

A. Volunteer Program Development: Prior to a new regular ongoing or occasional volunteer program being initiated or changed at any facility, a Program Proposal must be submitted and approved. The most current Program Proposal form can be accessed through the DOCCS Training Folder.

B. Job Descriptions: A volunteer job description is to be developed before the volunteer begins work. The job description must be developed by the appropriate VSS, and should include the following:

1. A general description of the duties that the volunteer will perform;
2. Meaningful, appropriate, and measurable work activities;
3. Location of the activity and frequency;
4. Name of the VSS; and
5. Name of the program's Key Volunteer.

Volunteer job descriptions shall be signed and agreed upon by the volunteer and the VSS, and a signed copy of the job description shall be on file in the Volunteer Services Office. Volunteers may only serve in the job as described in the file description. Any volunteer who wishes to serve in another job must be approved as described above.

C. Registration Procedures: Depending on the level of volunteer services provided, the volunteer applicant will complete a registration process that may consist of a volunteer application, Standards of Conduct, a criminal history check, fingerprinting, references, a screening interview, TB test, and ID card. Refer to Form #4750B, which defines the registration procedures required for the level of volunteer activity.

1. Application for Volunteer Status

   a. All volunteer applicants will complete a registration process that will consist of Form #MFVS3080, Part I, "Volunteer Information," and if applicable, Part II, "Criminal History" (see exceptions for government employees with Peace or Police Officer Status on Form #4750B), and a review and acknowledgement of Form #4750C and all applicable policies. Volunteers providing professional services should also attach documentation verifying that they are certified or qualified to do so.

   NOTE: If an applicant indicates that they have charges currently pending, the application process should be suspended until such time as a disposition of the charges is reached.

   Section I and II of Form #MFVS3080 must be scanned and filed electronically in a folder with the volunteer's name and facility, created and saved in the shared drive (e.g., Doe, John – Fishkill CF). Then, utilizing the information provided by the volunteer, enter the information into the following link: http://criminalhistoryrequest/. When the Criminal History Check Detail, Criminal History Response, and if applicable, Prospective are received, a copy must be filed in the volunteer's electronic folder.

   b. Part III, "Facility Executive Review," of Form #MFVS3080 will be completed by staff and approvals will be obtained from the Superintendent, DSP, and Deputy Superintendent for Security (DSS) prior to the volunteer beginning their service.

   c. Part IV, "Acknowledgement of Orientation," of Form #MFVS3080 will be reviewed for completeness, acknowledged, and signed by the volunteer and SCFVS who conducted the volunteer orientation.

2. Screening Interview: Upon receipt of a volunteer application, prospective volunteers who wish to serve on more than an occasional basis will be screened through an interview process by the appropriate VSS. Form #MFVS3082 will be used as a guide and will be completed during the interview, and a copy shall be placed in the volunteer's file as a reference in approving or disapproving the prospective volunteer's application.

3. Criminal History

   a. A criminal history check will be completed by the Department's Employee Investigation Unit (EIU) on volunteer applicants, including regular ongoing, occasional, and one-time volunteers (see exceptions on Form #4750B). This process will begin when EIU receives the criminal history request.

   b. For regular ongoing volunteers, fingerprints will be taken by the facility ID Officer. The ID Officer shall verify the identity of the person being fingerprinted, enter all pertinent data following the instructions on the cards, take the prints using the "rolled impression" method in the numbered print blocks and the "plain impression" method in the lower row of blocks, secure the signature of the person being fingerprinted, and then sign as the official taking fingerprints. Two of the following fingerprint cards shall be utilized:

      FBI FD-258 Applicant card (blue).

The completed fingerprint cards will then be forwarded to EIU for processing. The following address is to be utilized:

NYS DOCCS Employee Investigation Unit
State Office Campus, Bldg. #2
1220 Washington Avenue
Albany, NY 12226

If fingerprints are rejected for any reason, the SCFVS will be notified.

c. Applicants for regular ongoing status with derogatory information reported on the EIU criminal history check must wait for the return of their fingerprint report and Superintendent's approval before beginning their volunteer service. Those persons with no derogatory information may begin their volunteer assignment before their fingerprint report is returned.

One-time and occasional applicants with derogatory information will not require fingerprints. EIU checks must be updated on an annual basis.

NOTE: If the criminal history and/or fingerprint reports show a discrepancy in what the volunteer has disclosed, this may result in the volunteer's non-approval, suspension, and/or termination.

d. EIU must receive the completed fingerprint card within 30 days of conducting a criminal history check. If the fingerprint card is not received within this timeframe, EIU will notify the Director of Ministerial, Family and Volunteer Services on a monthly basis and volunteer assignments may be suspended until the fingerprint card is received.

4. Health Services Screening/Vaccinations

a. TB Testing: Facilities must strictly adhere to the Department's Division of Health Services' guidelines for TB testing for volunteers, as follows:

(1) Any volunteer who will be in any facility once per month or more, and/or have eight hours or more of continuous inmate/staff contact, must be skin tested.

(2) Any volunteer who wishes to be skin tested may be tested.

(3) Arrangements for skin testing of volunteers will be made through the facility medical department and/or the facility Volunteer Services Contact Person.

(4) Volunteers may be tested by their own physicians, if they desire, just as employees may, according to Directive #4322, "Tuberculosis Control Program."

b. Hepatitis B Vaccine: Anyone who would have reasonable likelihood of exposure to blood or body fluids would be eligible for the vaccine. All persons receiving the vaccine must have bloodborne pathogens training through the facility where they are volunteering before starting the vaccine series of three injections.

5. All volunteer gate clearances should be submitted in a timely manner to allow sufficient time for the DSP or the VSCP to verify that the individuals are properly registered volunteers.
6. Emergency contact information for each volunteer shall be kept on file in the Watch Commander's Office.

D. Volunteer Orientation

1. If approved, the regular ongoing volunteer will be scheduled to attend a volunteer orientation conducted by the facility SCFVS and a member of the security staff. This orientation will cover the "Standards of Conduct for Volunteers," Form #4750C, applicable policies, benefits for volunteers, security issues, health-related issues, and facility-specific information prior to the beginning of the volunteer activity. For occasional, one-time, or government agency volunteers who have Peace or Police Officer status, the orientation will be appropriate to the level of services provided and can be conducted by the DOCCS staff member supervising the event. Facilities will ensure that all regular ongoing volunteers participate in a refresher orientation every 24 months.

E. Training

1. Job-specific training for the volunteer activity will be given by the volunteer's VSS and may or may not include a tour of the facility grounds.
2. Volunteers will be required to attend periodic in-service training consistent with their level of inmate contact. Those identified by the SCFVS as providing services more than nine hours per week will be required to attend trainings offered by the Department. Specific training requirements will be determined by the Director of Ministerial, Family and Volunteer Services after consultation with the Director of the Training Academy (see Form #4750D, "Required Training for Various Categories of Volunteers").
3. All non-Departmental and contracted employees that are assigned to work within DOCCS facilities must adhere to the guidelines outlined in the NYS DOCCS Training Manual Subject 7.150. This policy requires that contracted volunteers complete a standardized 16-hour orientation prior to beginning their service. This orientation is in addition to the volunteer orientation provided by the SCFVS.

## VII. PROGRAM MONITORING AND EVALUATION

A. Supervising, monitoring, evaluating, and reporting on volunteers and volunteer programs is a joint effort among VSSs, the facility VSCPS, and the SCFVS, with oversight provided by the DSP and the RCCVS.

1. The DSP, with final approval of the Superintendent, will determine the VSS for a program.
2. Annual volunteer reviews are the responsibility of the VSS. Form #MFVS3086 is to be utilized for this review. The primary goal of this review is to receive feedback from the volunteer on any suggested program enhancements and/or volunteer concerns, as well as to show support of the program and its goals. A copy of all reviews will be included in the volunteer's file.

3. Program Proposals will be sent to the appropriate Central Office Division Director, by the Superintendent or designee, for each new program. The DSP will ensure that a file is maintained that includes up-to-date Program Proposals for all regular and occasional volunteer programs, a current list of volunteers, and the names of the Key Volunteers and VSSs. The SCFVS will assist the DSP in maintaining this information.
4. Annual Program Evaluations, using Form #MFVS3085, will be completed by the facility SCFVS, with copies sent to the facility DSP and RCCVS.

B. Staff must be aware of their responsibility to supervise volunteers and the programs that are assigned/accepted in their area, and that they must provide the facility Office of Volunteer Services with statistical data on volunteers involved in the program/service.

C. The decision regarding which facility staff person will have responsibility for supervising a volunteer or volunteer program rests with the facility Superintendent or designee.

D. During periods of facility emergencies, volunteer activity may be suspended or limited. It will be the responsibility of the DSP to ensure that volunteers are notified in a timely manner of any change in the program schedule to avoid any unnecessary travel of the volunteers.

E. To ensure that Volunteer Services Programs meet the needs of the inmates and facilities, each program will be evaluated on an annual basis by the facility SCFVS, utilizing Form #MFVS3085. A copy of this evaluation should be made available to the facility DSP and to the RCCVS.

**VIII. STATUS OF VOLUNTEERS**: Volunteers should be made to feel that they are a part of the facility staff and should be treated with courtesy and respect. Any allegations of the mistreatment of volunteers should be reported immediately through the appropriate channels. Staff encouragement and acceptance of volunteers will help to keep the volunteers motivated, productive, and will nurture a teamwork mentality. Vital to any volunteer program is the recognition of the contribution, achievements, and the status of the volunteer as a quasi-staff person.

As set forth in Section V, the Department recognizes and registers different types of volunteers. A volunteer who provides service to the Department without receiving compensation from any source is, by law, entitled to the benefits set forth in Sections VIII-A-1 and VIII-A-2 below. All volunteers are treated the same with respect to Section VIII-A-3. Those registered as volunteers who receive compensation for their service from some source should direct inquiries regarding Workers' Compensation Law benefits to the Workers' Compensation Board, Bureau of Compliance, and inquiries concerning defense and indemnification to the Office of the Attorney General.

A. Insurance Coverage/Indemnification

1. Workers' Compensation for Volunteers
   a. All volunteers who are registered, oriented, screened for TB, and approved as a volunteer by the facility Superintendent are covered for injuries related to their volunteer work by Workers' Compensation Benefits.

Staff supervising volunteers, must report injuries to volunteers, in accordance with Directive #4065, "Reporting Injuries and Occupational Illnesses," and Directive #2208B, "Workers' Compensation Benefits (Non-Uniformed Employees)."

b. It should be noted that a volunteer who has been fully registered and approved is eligible for Workers' Compensation, whether the service is performed in the community or in a correctional facility. Contract volunteers who receive an hourly rate for their work will be covered by the contract agency. The job description must indicate the location, within the facility, where the services are to be provided.

2. Indemnification Coverage for Volunteers

a. DOCCS volunteers have been afforded protection from financial loss arising out of a civil action.

b. The law provides that the State would save harmless and indemnify volunteers of the Department from financial loss arising out of a judgment in any civil action by reason of a claim of alleged negligence or other act of such person participating in a Volunteer Services program, provided that the damages were sustained while such person was acting in the discharge of his or her duties and within the scope of such duties, and the claim did not result from the willful and wrongful act or gross negligence of such person [Public Officers Law, Section 17].

c. The law applies to volunteers authorized to participate in a Volunteer Services program, provided such volunteer gives notice of such claim upon himself or herself within five days of service of such claim upon himself or herself [Public Officers Law, Section 17]. Individuals who have insurance policies that would cover them for claims arising pursuant to the volunteer programs must first use such policies before the State will defend and/or indemnify them.

3. Diversity Management: All volunteers who are registered and approved are afforded equal opportunity protection in accordance with Directive #2601, "Equal Employment Opportunity & Affirmative Action Program," based on NYS Executive Order No. 6.

B. Volunteer and Volunteer Staff Supervisor Recognition: Certificates of Appreciation will be awarded to volunteers at an annual recognition ceremony, or at some other suitable occasion. VSSs will also be recognized because their work with volunteers often exceeds their normal full-time duties. Employee evaluations shall reflect this extra effort.

C. Meals: Volunteers who provide service in a facility and whose volunteer assignment extends over an established meal period or is a minimum of four hours of continuous service may be furnished a meal from the facility Mess Hall. The free meal shall be the same as that provided to the inmate population. Volunteers, with permission from the Superintendent or designee, may be allowed to bring food (i.e., dietary needs/restrictions) for their own consumption.

## IX. VOLUNTEER MISCONDUCT

A. During volunteer orientation, volunteers must be informed that a formal suspension/dismissal procedure exists and what constitutes grounds for suspension and/or dismissal. Grounds for suspension/dismissal of volunteers are usually based on a violation of the "Standards of Conduct for Volunteers," Form #4750C, and all applicable policies, and the nature of such a violation.

For other instances of misconduct, volunteers will receive counseling by the SCFVS. This counseling session/meeting will be documented by the SCFVS, signed by all parties present, and a copy will be placed in the volunteer's file. This documentation should include all pertinent information regarding the matter, and should also include information relative to the outcome of the meeting. A copy of this information shall be forwarded to the appropriate RCCVS.

If suspension/dismissal is necessary, the process to be used is set forth below. It is mandatory that proper documentation be available if dismissal is contemplated.

B. Procedure for Suspension/Dismissal

1. Should anyone have a sound reason to question a volunteer's actions, the witnessing party shall report, in writing, all relevant information to the facility SCFVS. A written report will be prepared by the SCFVS and submitted to the facility Superintendent or designee for review and action. Such action may consist of limiting, postponing, or suspending the services of the volunteer. The SCFVS will be consulted during this review. A determination may be made by the facility Superintendent and/or the Director of Ministerial, Family and Volunteer Services to consult and/or include the Department's Office of Special Investigations depending on the nature of the violation. Only the Superintendent or Acting Superintendent has the authority to suspend a volunteer.
2. A volunteer who has been suspended must be notified, in writing, by the facility Superintendent within five days. This letter must inform the volunteer of the allegations, the date of the temporary suspension, and that volunteer activity in all facilities has been suspended pending an investigation. If the volunteer is scheduled to volunteer during the week of the suspension, the SCFVS must call the volunteer to notify them of the suspension, so as to avoid the volunteer arriving at the facility.
3. A copy of the suspension letter, as well as documentation regarding the violation, and a copy of the volunteer's file will be forwarded to the appropriate RCCVS, who will review the contents for completeness and will then review the case with the Assistant Director of Family and Volunteer Services.
4. The RCCVS will discuss the case with the facility Superintendent, who must approve of the final disposition. If there is not a consensus on the final disposition, the Superintendent will consult with the Supervising Superintendent and the Director of Ministerial, Family and Volunteer Services.
5. If the severity of the volunteer's violation warrants Statewide termination, the RCCVS will recommend to the Assistant Director that the volunteer's activity in all DOCCS facilities be terminated. Final decision rests with the Deputy Commissioner for Program Services.

6. The volunteer must receive written notification of the decision directly from the RCCVS. Copies of all relevant paperwork must be forwarded to the Office of Ministerial, Family and Volunteer Services in Albany.
7. The letter must state that the volunteer may appeal, in writing, to the Deputy Commissioner for Program Services within 30 days of receipt of the letter. The Deputy Commissioner for Program Services will then issue a final determination to the volunteer within 30 days of receipt of the appeal.

**X. STANDARDS OF CONDUCT FOR VOLUNTEERS AND APPLICABLE POLICIES**: Standards of Conduct for Volunteers are subject to change by the Deputy Commissioner for Program Services. It will be the facility's responsibility to ensure that all active volunteers have been oriented to the new standards, and to ensure that they are followed.

A. Standards of Conduct for Volunteers and All Applicable Policies: The "Standards of Conduct for Volunteers," Form #4750C, and all applicable policies will be used by all facilities. Standards and policies must be given as part of the orientation of all volunteers and will be presented by staff in a positive manner. Each standard should be explained and clarified so that the volunteer will understand what constitutes good security practices relative to contraband and appropriate type of behavior.

B. Documentation: The volunteer will acknowledge, in writing, that he or she has in fact been presented with the following policies, understands them, and intends to comply. The signed Form #MFVS3087, "Acknowledgement of 'Standards of Conduct for Volunteers' and All Applicable Policies," must be maintained in the volunteer's file.

1. Form #4750C, "Standards of Conduct for Volunteers";
2. Policy on the Prevention of Sexual Abuse of Inmates and copies of Directives #4027A and #4028A;
3. Policy Statement on Sexual Harassment in the Workplace;
4. Non-Discrimination in Employment Based on Sexual Orientation and Gender Identity;
5. Writing Letters of Recommendation for Inmates;
6. Language Access;
7. Suicide Prevention Memorandum;
8. Wrist Watches/Devices Memorandum;
9. Contraband – Smartglasses Memorandum; and
10. Clear Bag Memorandum.

C. New Policies: Volunteers will be informed of new relevant policies that are issued and if requested, provide written acknowledgement of said policy.