

Proposed Text of Rule

TITLE 7 NYCRR

Chapter I, Part I, Section 1.5

Subdivision (f) is amended as follows:

(f) Correctional facility means any place operated by the department and designated by the commissioner as a place for the confinement of persons under sentence of imprisonment[or persons committed for failure to pay a fine].

Subdivision (u) is amended as follows:

(u) *Special populations* means any person: (1) who is pregnant, or in the first eight weeks of post-partum recovery period regardless of how the pregnancy ended, or caring for a child in a correctional institution pursuant to subdivision two or three of section six hundred eleven of the Correction Law;[or] (2) who suffers from a disability as defined in paragraph (a) of subdivision twenty-one of section two hundred ninety-two of the Executive Law and said disability impairs the individual's ability to provide self-care within the environment of a correctional facility; (3) twenty-one years of age or younger; or (4) fifty-five years of age or older.

Subdivision (v) is amended as follows:

(v) Segregated confinement means [the disciplinary confinement of an incarcerated individual in a special housing unit or in a separate keeplock unit. Special housing units and separate keeplock units are housing units that consist of cells grouped so as to provide separation from the general population and may be used to house incarcerated individuals confined pursuant to the disciplinary procedures described in this Title]the confinement of an incarcerated individual in any form of cell confinement for more than seventeen hours a day other than a facility wide emergency or for the purpose of providing medical or mental health treatment.

Subdivision (w) is amended as follows:

(w) Administrative segregation means the involuntary removal of an incarcerated individual from general confinement [and placement in a special housing unit or residential rehabilitation unit] based upon a determination that the individual's continued presence in general population would pose an unreasonable and demonstrable risk to the safety and security of staff, incarcerated individuals, the facility, or would present an unreasonable risk of escape.

Subdivision (x) is repealed.

Chapter V

Chapter V title, amend as follows:

Chapter V Procedures for Implementing the Standards of [Inmate]Incarcerated Individual Behavior and for Granting Good Behavior Time Allowances

Subchapter A, Part 250

Section 250.2 is repealed.

Section 251-1.5 is repealed.

Section 251-1.6 is amended as follows:

(a) [Where an officer has reasonable grounds to believe that an inmate should be confined to his cell or room or housing area because he represents an immediate threat to the safety, security or order of the facility or in immediate danger to other persons or to property, such officer shall take reasonable and appropriate steps to so confine the inmate.]Incarcerated individuals in special populations as defined in 7 NYCRR § 1.5 shall not be placed in segregated confinement for any length of time.

(b) An [inmate also]incarcerated individual may be confined to [his]a cell or room where such action appears reasonably necessary for protection of the [inmate]incarcerated individual. In any such case, however, the [inmate]incarcerated individual shall not be so confined for more than [72]17 hours, unless approval for an extension of this time has been granted by the facility superintendent and deputy commissioner for correctional facilities. In which case this period may be extended up to 48 hours. [and within such time period the inmate shall either be:

- (1) transferred to another housing unit;
- (2) scheduled for transfer to another facility;
- (3) released from such confinement; or
- (4) placed in protective custody.]

Subdivisions (c), (d), and (e) are repealed.

Subdivision (f) is renumbered subdivision (c), and newly renumbered Subdivision (c) is amended as follows:

[(f)c] The provisions of this section shall not be construed so as to prohibit emergency action by the superintendent of the facility and, if necessary for the safety or security of the facility, all [inmate]incarcerated individuals or any segment of the [inmate]incarcerated individuals in a facility may, on the order of the person in charge

of the facility, be confined in their cells or rooms for the duration of any period in which the safety or security of the facility is in jeopardy. In any such case the superintendent shall immediately notify the commissioner.

Section 251-1.7 is amended as follows:

Section 251-1.7. Admission to special housing units

Admission of an [inmate]incarcerated individual to a special housing unit shall be in accord with Part 301 of this Title.

Section 251-2.1 is repealed.

Section 251-2.2 is amended as follows:

Section 251-2.2. [Function of the review officer]Misbehavior report review
[(a) The A review officer shall [receive at least once daily,] review all misbehavior reports, [issued at the facility]which have not yet been reviewed, at least once on each shift. The review officer shall also review the status of each incarcerated individual confined pursuant to a misbehavior report under review within 17 hours of such confinement and may order release from confinement where the act of misbehavior is ineligible for segregated confinement.

Subdivisions (b), (c), (d), (e), and (f) are repealed

Section 251-4.1 is amended as follows:

Section 251-4.1. [Inmate assistant]Employee Assistance.

(a) An [inmate]incarcerated individual shall have the opportunity to [pick an employee from an established list of persons] request assistance from an employee, to be designated by the facility, who shall assist the [inmate]incarcerated individual when a misbehavior report has been issued against the [inmate]incarcerated individual if:

(1) the [inmate]incarcerated individual is either illiterate or non-English speaking;
or

(2) the [inmate]incarcerated individual is sensorially disabled (in which case the [inmate]incarcerated individual will be provided reasonable accommodations including, but not limited to, the provision of a qualified sign language interpreter for a deaf and hard of hearing [inmate]incarcerated individual who uses sign language to communicate); or

[(3) the inmate is charged with drug use as a result of a urinalysis test; or]

([4]3) the [inmate]incarcerated individual is [confined]placed in segregated confinement pending a superintendent's hearing to be conducted pursuant to Part 254 of this Title.

(b) In other cases where a misbehavior report has been issued, the review officer or hearing officer, in his absolute discretion, may offer an [inmate]incarcerated individual the opportunity to [pick an inmate assistant]seek employee assistance where such assistance would enable the [inmate]incarcerated individual to adequately comprehend the case in order to respond to the charges.

Section 251-4.2 is repealed.

Section 251-5.1 is amended as follows:

(a) Where an [inmate]incarcerated individual is [confined]placed in segregated confinement pending a [disciplinary hearing or]superintendent's hearing, the hearing must be completed [as soon as is reasonably practicable following the inmate's initial]within five days of such placement in segregated confinement, [pending said disciplinary hearing or superintendent's hearing, but, in no event may it be commenced beyond seven days of said confinement without authorization of the commissioner or his designee]unless the subject incarcerated individual requests a postponement for the purposes of seeking employee assistance and/or representation.

(b) [The disciplinary hearing or superintendent's hearing must be completed within 14 days following the writing of the misbehavior report unless otherwise authorized by the commissioner or his designee. Where a delay is authorized, the record of the hearing should reflect the reasons for any delay or adjournment, and an inmate should ordinarily be made aware of these reasons unless to do so would jeopardize institutional safety or correctional goals]Requests to postpone the hearing must be submitted by the charged individual to the hearing officer, in person, at the individual's first appearance before the hearing officer. Failure to appear will result in the waiver of any postponement request and the hearing will be held in the charged individual's absence. Postponement requests will not be accepted by escorting officers or other departmental staff.

Subdivision (c) is repealed.

New Section 251-5.2 is added as follows:

Section 251-5.2. Representation

(a) Where an incarcerated individual is placed in segregated confinement pending a disciplinary hearing or superintendent's hearing, such incarcerated individual shall be permitted to be represented by:

(1) an attorney, having good standing, admitted to practice in any state;

(2) a law student, provided that an attorney member of the law school's faculty certifies to the Department, in writing, that the faculty member has direct supervisory authority over the student, shall make reasonable efforts to ensure that the student's conduct is compatible with the professional obligations of a lawyer, and provide the faculty member's contact information through the school's publicly listed business phone number and school issued email address;

(3) a paralegal, provided that an attorney, having good standing, admitted to practice in any state certifies to the Department, in writing, that shall make reasonable efforts to ensure that the paralegal's conduct is compatible with the professional obligations of the lawyer and the paralegal has met one or more of the following requirements:

(i) Successful completion of the Certified Paralegal (CP) certifying examination of NALA;

(ii) Graduation from an ABA approved program of study for paralegals;

(iii) Graduation from a course of study for paralegals which is institutionally accredited but not ABA approved, and which requires not less than the equivalent of 60 semester hours of class-room study;

(iv) Graduation from a course of study for paralegals, other than those set forth above, plus not less than six months of in-house training as a paralegal;

(v) A baccalaureate degree in any field, plus not less than six months in-house training as a paralegal;

(vi) A minimum of three years of law-related experience under the supervision of an attorney, including at least six months of in-house training as a paralegal; or

(vii) Two years of in-house training as a paralegal.

(4) another incarcerated individual, provided that the proposed representative is willing to serve as such representative and meets the following objective criteria:

(i) is located at the same facility where the charged individual is located. If a charged individual with an approved incarcerated representative is transferred prior to any pre-hearing contact with their representative, the charged individual may request a postponement for representation by a different incarcerated individual, subject to all Departmental criteria for such representation;

(ii) is medically able to participate in the hearing and has a Beta IQ score above 70;

(iii) has not been found guilty of any Tier III offense within the last year;

(iv) has received a high school or equivalency diploma or is currently enrolled in a high school equivalency program; and

(v) is pursuing their most recently assigned earned eligibility or program plan with no current program refusals.

New Section 251-5.3 is added as follows:

Section 251-5.3. Notice of outside representation

(a) At least two business days before the scheduled hearing, the attorney, law student, or paralegal must contact the facility by email, providing notice of representation, written certification such representative meets all departmental requirements for such representation, and a publicly listed business phone number where they can be reached by the hearing officer at scheduled date and time of the hearing.

New Section 251-5.4 is added as follows:

Section 251-5.4. Outside representative requests

(a) Outside representatives may make one written request for postponement for rescheduling or additional employee assistance requests, provided that such request is submitted by email with the notice of outside representation and reasonably describe the assistance sought.

(b) Reasonable postponement requests may be granted dependent upon the scheduling needs of the facility; however, such postponements may not exceed 14 calendar days from the charged initial placement in segregated confinement.

Section 253.7 is amended as follows:

Section 253.7. Dispositions and mandatory surcharge

(a) Dispositions.

(1) Upon affirming a charge, the hearing officer may impose one or more of the following penalties:

(i) counsel and/or reprimand; and

(ii) [loss of one or more specified privileges for a period of up to 30 days, however, correspondence and visiting privileges may not be withheld;] any non-confinement sanction in accordance with departmental directive 4932.

(a) A loss of visiting privileges may be imposed under this subparagraph for any

confirmed charge;

A loss of visiting privileges with a specified visitor or visitors may be imposed where the misconduct involved only the incarcerated individual and the specified visitor or visitors. Where the misconduct was not limited to the specified visitor or visitors a loss of visiting privileges with all visitors may be imposed. Misconduct involving Unacceptable Physical Conduct during which other visitors were subjected to exposure is misconduct which is not limited to only the inmate and the specified visitor or visitors. Misconduct involving an attempt to introduce money, alcohol, marijuana, narcotic and other dangerous drugs, any item which is readily capable of being used to cause death or serious injury, or any item which may be used to aid in escape is misconduct which is not limited to only the incarcerated individual and the specified visitor or visitors;

A loss of visiting privileges may be imposed under subparagraph (ii) only for the length of time stated in departmental directive 4932 and

The hearing officer may, within his or her discretion, limit an incarcerated individual to noncontact visiting in lieu of suspending all visiting privileges;

(b) Restitution may be imposed for loss or intentional damage to property up to be made from an incarcerated individual's existing and future funds;

(c) The imposition of one work task per day other than a regular work assignment for a maximum of seven days, excluding Sundays and public holidays, to be performed on the incarcerated individual's housing unit or other designated area. Incarcerated individuals given such disposition who are participating in a regular work assignment shall not be required to work more than 8 hours per day. The eight-hour limitation excludes such non-work assignments as educational or vocational school programming; and

(d) Forfeiture of money confiscated as contraband.

[(iii) confinement to a cell or room continuously or to a special housing unit under keeplock admission or on certain days during certain hours for a period of up to 30 days (see Chapter VI, Part 301, section 301.6);

(iv) restitution for loss or intentional damage to property up to \$100; or

(v) the imposition of one work task per day other than a regular work assignment for a maximum of seven days, excluding Sundays and public holidays, to be performed on the inmate's housing unit or other designated area. Inmates given such disposition who are participating in a regular work assignment shall not be required to work more than eight hours per day. The eight-hour limitation excludes such non-work assignments as educational or vocational school programming.

(2) any penalty imposed pursuant to this section shall run consecutively to any other like

penalty previously imposed unless the hearing officer advised the inmate that the penalty shall run concurrently.

(3) Whenever a confinement penalty is being served and a more restrictive confinement penalty is imposed as a result of another hearing, the more restrictive penalty shall begin to be served immediately, and any time owed on the less restrictive penalty shall be served after completion of the more restrictive penalty period.

(4) The disciplinary hearing officer may suspend imposition of any penalty for a period of up to 90 days. Any such suspended penalty may be imposed by a subsequent disciplinary hearing or superintendent's hearing officer upon substantiating a charge of misbehavior in a subsequent hearing within the specified period.

(5)](2) As soon as possible, but not later than 24 hours after the conclusion of the hearing, the [inmate]incarcerated individual shall be given a written statement of the disposition of the hearing. This statement shall set forth the evidence relied upon by the hearing officer in reaching his decision and also set forth the reasons for any penalties imposed.

(b)Mandatory disciplinary surcharge. Upon the conclusion of a disciplinary hearing wherein the [inmate]incarcerated individual admits the charges, or where the hearing officer affirms one or more charges, a mandatory disciplinary surcharge in [the amount of \$5]accordance with departmental directive 4932 shall be assessed automatically against the [inmate]incarcerated individual.

Section 254.7 is amended as follows:

Section 254.7. Dispositions and mandatory disciplinary surcharge

(a)Dispositions.

(1) Where the [inmate]incarcerated individual admits the charges, or where the hearing officer affirms the charges on the basis of the evidence, the hearing officer may impose one or more of the following penalties:

(i) counsel and/or reprimand;

[(ii) loss of one or more specified privileges for a specified period, however correspondence may be withheld with a particular person only where the inmate has been involved in improper conduct in connection with correspondence with such person;

(iii)](ii) [loss of visiting privileges for a specified period where the affirmed charges involve improper conduct as a result of the inmate's presence or conduct in connection with a visiting, family reunion or special events program, or processing before or after participation in such program]any non-confinement sanction in accordance with departmental directive 4932;

(a) [a] A loss of visiting privileges may be imposed under this subparagraph [only where the affirmed charges involve the violation of any rule under rule series 100 assault and fighting; 101 sex offenses; 108 escape and abscondence; 113 contraband where such contraband consists of any weapon, narcotic, controlled substance or marijuana and/or paraphernalia, alcoholic beverage or intoxicant, electronic device, or money; 114 smuggling; or 115 searches and frisks, including any attempt or conspiracy to violate any such rule; or a disposition under rule 1.00 for a criminal conviction relating to such conduct] for any confirmed charge;

[(b) a] A loss of visiting privileges with a specified visitor or visitors may be imposed where the misconduct involved only the [inmate]incarcerated individual and the specified visitor or visitors. Where the misconduct was not limited to the specified visitor or visitors a loss of visiting privileges with all visitors may be imposed. Misconduct involving Unacceptable Physical Conduct during which other visitors were subjected to exposure is misconduct which is not limited to only the [inmate]incarcerated individual and the specified visitor or visitors. Misconduct involving an attempt to introduce money, alcohol, marijuana, narcotic and other dangerous drugs, any item which is readily capable of being used to cause death or serious injury, or any item which may be used to aid in escape is misconduct which is not limited to only the [inmate]incarcerated individual and the specified visitor or visitors;

[(c) a] A loss of visiting privileges may be imposed under this subparagraph only for the length of time specified in [accordance with the provisions of the penalty chart contained in section 201.4(e) of this Title. Where the disposition imposes a loss of visiting privileges with all visitors for two years or more, a copy of the disposition shall be forwarded to the superintendent for a discretionary review under section 254.9 of this Part. Where the disposition includes an indefinite suspension of visiting privileges and the inmate does not appeal the disposition pursuant to section 254.8 of this Part, the visiting sanction shall nevertheless be reviewed by the director of special housing and inmate disciplinary program within six months of the hearing date. An inmate subject to a disciplinary sanction imposing a suspension of visiting privileges for a term over two years or indefinite suspension of visiting privileges may request reconsideration of the suspension of visiting privileges for a term over two years in accordance with section 201.6 of this Title] departmental directive 4932; and

[(d) t] The hearing officer may, within his or her discretion, limit an [inmate]incarcerated individual to noncontact visiting in lieu of suspending all visiting privileges;

(b) Restitution may be imposed for loss or intentional damage to property up to be made from an incarcerated individual's existing and future funds;

(c) The imposition of one work task per day other than a regular work assignment for a maximum of seven days, excluding Sundays and public holidays, to be performed on the incarcerated individual's housing unit or other designated area.

Incarcerated individuals given such disposition who are participating in a regular work assignment shall not be required to work more than 8 hours per day. The eight-hour limitation excludes such non-work assignments as educational or vocational school programming;

(d) Forfeiture of money confiscated as contraband; and

(e) Where applicable, removal from the elected inmate grievance resolution committee (IGRC) and/or loss of the privilege of participating as a voting member of the IGRC for a specified period of time.

(iii) segregated confinement for a specified period and

[(iv) loss of visiting privileges for a specified period not to exceed six months for a first offense and one year for any repeat offense where the affirmed charges involve the violation of one of the following rules, regardless of the location of the rule violation: 113.24 (prohibiting the use of narcotics, controlled substances, or marijuana, e.g., positive urinalysis); 113.25 (prohibiting making, possessing, selling or exchanging any narcotic, narcotic paraphernalia, controlled substance or marijuana); or 180.14 (requiring an inmate to comply with instructions by staff regarding urinalysis testing);

(v) confinement to a cell or room continuously or to a special housing unit continuously or on certain days during certain hours for a specified period;

(vi) confinement as authorized in subparagraph (iii) of this paragraph, but on a restricted diet administered in accordance with the provisions of section 304.2 of this Title;

(vii) restitution for loss or intentional damage to property to be made from an inmate's existing and future funds;

(viii) forfeiture of money confiscated as contraband;

(ix)](iv) loss of a specified period of good behavior allowance ("good time"), subject to restoration [as provided in Subchapter B of this Chapter;]upon substantial completion of the incarcerated individual's rehabilitation plan.

[(x) the imposition of one work task per day other than a regular work assignment for a maximum of seven days, excluding Sundays and public holidays, to be performed on the inmate's housing unit or other designated area. Inmates given such disposition who are participating in a regular work assignment shall not be required to work more than eight hours per day. The eight-hour limitation excludes such non-work assignments as educational or vocational school programming; and

(xi) where applicable, removal from the elected inmate grievance resolution committee (IGRC), and/or loss of the privilege of participating as a voting member of the IGRC for a specified period of time.

(2) Any penalty imposed pursuant to this section shall run consecutively to any other like penalty previously imposed unless the hearing officer advised the inmate that the penalty shall run concurrently.

(3) Whenever a confinement penalty is being served and a more restrictive confinement penalty is imposed as a result of another hearing, the more restrictive penalty shall begin to be served immediately, and any time owed on the less restrictive penalty shall be served after completion of the more restrictive penalty period.

(4) The disciplinary hearing officer may suspend imposition of any penalty for a period of up to 180 days. Any such suspended penalty may be imposed by a subsequent disciplinary hearing or superintendent's hearing officer upon substantiating a charge of misbehavior in a subsequent hearing within the specified period.

(5)](2) As soon as possible, but not later than 24 hours after the conclusion of the hearing, the [inmate]in~~carcerated individual~~ shall be given a written statement of the disposition of the charges. This statement shall set forth the evidence relied upon by the hearing officer in reaching his decision; the reasons for any penalties imposed; if applicable, pursuant to section 254.6(b) of this Part, how the [inmate's]in~~carcerated individual's~~ mental condition or intellectual capacity was considered; and, if applicable, pursuant to section 254.6(h) of this Part, how age affected this disposition.

(b)Mandatory disciplinary surcharge. Upon the conclusion of a superintendent's hearing wherein the [inmate]in~~carcerated individual~~ admits the charges, or where the hearing officer affirms one or more charges, a mandatory disciplinary surcharge in [the amount of \$5]acc~~ordance with departmental directive 4932~~ shall be assessed automatically against the [inmate]in~~carcerated individual~~.

Chapter V, Subchapter C, Part 270

Section 270.2 is amended as follows:

Section 270.2. Standards of [inmate]in~~carcerated individual~~ behavior

[Implemented on September 1, 1988, t]The following is a list of prohibited behavior in all correctional facilities. Violation of any of the rules will result in appropriate disciplinary action.

A. PENAL LAW OFFENSES

		<i>Tier</i>
Rule 1.00	Any Penal Law offense may be referred to law enforcement agencies for prosecution through the courts. In addition, departmental sanctions may be imposed based upon a criminal conviction.	II, III

Note: This rule does not preclude an [inmate]incarcerated individual from being disciplined at any time for any violation of the following rules of conduct based upon the same incident.

B. INSTITUTIONAL RULES OF CONDUCT

<i>1. Rule Series 100 Assault and Fighting.</i>			<i>Tier</i>
i.	100.10	An <u>[inmate]incarcerated individual</u> shall not assault or inflict or attempt to inflict bodily harm upon any other <u>[inmate]incarcerated individual</u> .	II, III
ii.	100.11	An <u>[inmate]incarcerated individual</u> shall not assault or inflict or attempt to inflict bodily upon any staff member.	II, III
iii.	100.12	An <u>[inmate]incarcerated individual</u> shall not assault or inflict or attempt to inflict bodily harm upon any person not included in rules 100.10 and 100.11.	II, III
iv.	100.13	An <u>[inmate]incarcerated individual</u> shall not engage in fighting.	I, II, III
v.	100.14	An <u>[inmate]incarcerated individual</u> shall not practice or instruct others in martial arts (aikido, judo, karate, jujitsu, kung fu, t'ai chi ch'uan, etc.)	I, II
vi.	100.15	An <u>[inmate]incarcerated individual</u> shall not engage in unauthorized sparring, wrestling, body-punching, or other forms of disorderly conduct.	I, II
<i>2. Rule Series 101 Sex Offenses.</i>			<i>Tier</i>
i.	101.10	An <u>[inmate]incarcerated individual</u> shall not engage in or encourage, solicit or attempt to force another to engage in sexual acts.	I, II, III
ii.	101.11	An <u>[inmate]incarcerated individual</u> shall not intentionally and forcibly touch the sexual or other intimate parts of an employee for the purpose of degrading or abusing such employee or for the purpose of gratifying the <u>[inmate]incarcerated individual's</u> sexual desire. Forcible touching includes squeezing, grabbing, pinching and kissing.	I, II, III
iii.	101.20	An <u>[inmate]incarcerated individual</u> shall not engage in lewd conduct by intentionally masturbating in the presence of an employee, or intentionally exposing the private parts of his or her body unless as part of a strip frisk, strip search, medical examination or other authorized purpose.	I, II, III

iv.	101.21	An <u>[inmate]incarcerated individual</u> shall not engage in physical contact with another <u>[inmate]incarcerated individual</u> . Prohibited conduct includes, but is not limited to, kissing, embracing or hand-holding.	I, II
v.	101.22	An <u>[inmate]incarcerated individual</u> shall not stalk an employee, visitor or other person. Stalking includes, but is not limited to, conduct directed at a specific employee, visitor or other person where the <u>[inmate]incarcerated individual</u> knows, or reasonably should know, that such conduct is likely to cause reasonable fear of material harm to the physical health, safety or property of such person.	I, II, III
<i>3. Rule Series 102 Threats.</i>			<i>Tier</i>
i.	102.10	An <u>[inmate]incarcerated individual</u> shall not, under any circumstances make any threat, spoken, in writing, or by gesture.	I, II, III
<i>4. Rule Series 103 Bribery and Extortion.</i>			<i>Tier</i>
i.	103.10	An <u>[inmate]incarcerated individual</u> shall not bribe or extort or attempt to bribe or extort any person.	I, II
ii.	103.20	An <u>[inmate]incarcerated individual</u> shall not request or solicit goods or services from any business or any person other than an immediate family member without the consent and approval of the facility superintendent or designee.	I, II
<i>5. Rule Series 104 Riot, Disturbances and Demonstrations.</i>			<i>Tier</i>
i.	104.10	An <u>[inmate]incarcerated individual</u> shall not conspire or take any action which is intended to or results in the takeover of any area of the facility.	II, III
ii.	104.11	An <u>[inmate]incarcerated individual</u> shall not engage in any violent conduct or conduct involving the threat of violence either individually or in a group.	II, III
iii.	104.12	An <u>[inmate]incarcerated individual</u> shall not lead, organize, participate, or urge other <u>[inmate]incarcerated individuals</u> to participate, in a work-stoppage, sit-in, lock-in, or other actions which may be detrimental to the order of facility.	II, III
iv.	104.13	An <u>[inmate]incarcerated individual</u> shall not engage in conduct which disturbs the order of any part of the facility. This includes, but is not limited to, loud talking	I, II

in a mess hall, program area or corridor, talking after the designated facility quiet time, playing a radio, television or tape player without a headphone or through a headphone in a loud or improper manner, or playing a musical instrument in a loud or improper manner.

6. Rule Series 105 Unauthorized Assembly or Activity.			Tier
i.	105.10	An [inmate]incarcerated individual shall not form a group of [inmate]incarcerated individuals or join an assembly of [inmate]incarcerated individuals without authorization. The size of the group is determined by local policy.	I, II
ii.	105.11	An [inmate]incarcerated individual shall not conduct a religious service or make a speech or address without authorization by the superintendent or designee.	I, II
iii.	105.12	[Reserved]	
iv.	105.13	An [inmate]incarcerated individual shall not engage in or encourage others in gang activities or meetings, or display, wear, possess, distribute or use gang insignia or materials including, but not limited to, printed or handwritten gang or gang related material.	I, II, III
<p><i>Note:</i> For purposes of this rule, a gang is a group of individuals, having a common identifying name, sign, symbol or colors, who have individually or collectively engaged in a pattern of lawlessness (e.g., violence, property destruction, threats of harm, intimidation, extortion, or drug smuggling) in one or more correctional facilities or that are generally recognized as having engaged in a pattern of lawlessness in the community as a whole. For purposes of this rule, printed or handwritten gang or gang related material is written material that, if observed in the [inmate]incarcerated individual's possession, could result in an inference being drawn about the [inmate]incarcerated individual's gang affiliation, but excludes published material that the [inmate]incarcerated individual has obtained through the facility library or that has been approved for the [inmate]incarcerated individual to possess through the media review process.</p>			
v.	105.14	An [inmate]incarcerated individual shall not engage in or encourage others to engage in unauthorized	I, II, III

organizational activities or meetings, or possess printed or handwritten material relating to an unauthorized organization where such material advocates either expressly or by clear implication, violence based upon race, religion, sex, sexual orientation, creed, law enforcement status or violence or acts of disobedience against department employees or that could facilitate organizational activity within the institution by an unauthorized organization.

Note: For purposes of this rule, an unauthorized organization is any organization which has not been approved by the deputy commissioner for program services. Printed or handwritten material that could facilitate organizational activity includes, but is not limited to, a membership roster, organizational chart, constitution or bylaws. This rule excludes possession of published material that the [inmate]incarcerated individual has obtained through the facility library or that has been approved for the [inmate]incarcerated individual to possess through the media review process. During the pendency of an application to obtain authorization for a proposed [inmate]incarcerated individual organization, the rule also excludes specific printed or handwritten material that the Deputy Superintendent for Programs or higher ranking employee has requested in writing that the [inmate]incarcerated individual submit as part of the application process.

<i>7. Rule Series 106 Refusal to Obey a Direct Order.</i>			<i>Tier</i>
i.	106.10	AN <u>[INMATE]INCARCERATED INDIVIDUAL</u> SHALL OBEY ALL ORDERS OF DEPARTMENT PERSONNEL PROMPTLY AND WITHOUT ARGUMENT.	I, II
ii.	106.11	An <u>[inmate]incarcerated individual</u> shall promptly obey an order by department personnel to provide a DNA sample	I, II
<i>8. Rule Series 107 Interference with an Employee or Other Person.</i>			<i>Tier</i>
i.	107.10	An <u>[inmate]incarcerated individual</u> shall not physically or verbally obstruct or interfere with an employee at	I, II, III

any time.

ii.	107.11	An [inmate]incarcerated individual shall not harass an employee or any other person verbally or in writing. Prohibited conduct includes, but is not limited to, using insolent, abusive, or obscene language or gestures, or writing or otherwise communicating messages of a personal nature to an employee or any other person including a person subject of an order of protection with the [inmate]incarcerated individual or who is on the [inmate]incarcerated individual's negative correspondence list.	I, II[, III]
iii.	107.20	An [inmate]incarcerated individual shall not lie or provide an incomplete, misleading and/or false statement or information.	I, II
iv.	107.21	An [inmate]incarcerated individual shall not file or record any document or instrument of any description which purports to create a lien or record a security interest of any kind against the person or property of any officer or employee of the department, the State of New York or the United States absent prior written authorization from the superintendent or a court order authorizing such filing.	I, II
<i>9. Rule Series 108 Escape and Abscondence.</i>			<i>Tier</i>
i.	108.10	An [inmate]incarcerated individual shall not escape, attempt to escape, conspire to, or be an accessory to an escape from any correctional facility or correctional custody.	III
ii.	108.11	An [inmate]incarcerated individual shall not exceed the authorized limits of travel on any work release or furlough-type program.	I, II
iii.	108.12	An [inmate]incarcerated individual shall not exceed any time limit imposed on any work release or furlough-type program.	I, II
iv.	108.13	An [inmate]incarcerated individual shall not be in possession of any article or paraphernalia which gives reasonable grounds to believe escape is planned.	II, III
v.	108.14	An [inmate]incarcerated individual shall comply with	I, II

temporary release programming rules and regulations.

vi.	108.15	An <u>[inmate]incarcerated individual</u> shall not abscond, attempt to abscond, conspire to abscond, or be an accessory to an abscondence from temporary release from a correctional facility or correctional custody. An <u>[inmate]incarcerated individual</u> is guilty of absconding when, as a temporary release participant, he or she intentionally fails to return at or before the time prescribed for return.	II, III
<i>10. Rule Series 109 [inmate]Incarcerated individual Movement.</i>			<i>Tier</i>
i.	109.10	An <u>[inmate]incarcerated individual</u> shall not be out of place in any area of the facility.	I, II
ii.	109.11	An <u>[inmate]incarcerated individual</u> shall not leave an assigned area without authorization.	I, II
iii.	109.12	An <u>[inmate]incarcerated individual</u> shall follow all facility regulations and staff directions relating to movement within the facility. This includes, but is not limited to, seating, lock-in, lock-out, call slip procedures, and all activities of a similar nature.	I, II
iv.	109.13	An <u>[inmate]incarcerated individual</u> who is on an outside work assignment, such as a community service project or outside ground detail, shall not leave his or her assigned area or communicate with members of the public without authorization.	I, II
v.	109.14	An <u>[inmate]incarcerated individual</u> shall wear religious robes and garments at scheduled and approved religious ceremonies or services only.	I, II
vi.	109.15	An <u>[inmate]incarcerated individual</u> shall accept double-cell assignments when such an assignment is directed by facility staff.	I, II
<i>11. Rule Series 110 [Inmate]Incarcerated individual Identification and Grooming.</i>			<i>Tier</i>
i.	110.10	Unless otherwise directed, an <u>[inmate]incarcerated individual</u> shall at all times carry his or her	I, II

departmental ID card and promptly produce the ID at the direction of any departmental employee.

ii.	110.20	An <u>[inmate]incarcerated individual</u> shall not alter, deface, or in any other way tamper with the issued ID card. Whenever replacement is required, as a result of this action, the replacement cost will be borne by the <u>[inmate]incarcerated individual</u> . Refusal to voluntarily pay for replacement cost may result in restitution being imposed through the disciplinary process.	I, II
iii.	110.21	An <u>[inmate]incarcerated individual</u> shall not be in possession of any type of an identification card or identification paper other than those authorized.	I, II
iv.	110.30	An <u>[inmate]incarcerated individual</u> shall report the loss of his or her ID card promptly to an employee. Reimbursement costs may be imposed.	I, II
v.	110.31	An <u>[inmate]incarcerated individual</u> shall pay the cost of a replacement ID card whenever the <u>[inmate]incarcerated individual's</u> appearance is changed as a result of a beard, mustache, or change in hair length or color. Refusal to voluntarily pay for replacement cost may result in restitution being imposed through the disciplinary process.	I, II
<i>12. Rule Series 111 Impersonation.</i>			<i>Tier</i>
i.	111.10	An <u>[inmate]incarcerated individual</u> shall not impersonate any employee or any other person in any manner.	II, III
ii.	111.11	An <u>[inmate]incarcerated individual</u> shall not be in possession of any security key, badge, employee identification or employee clothing.	II, III
<i>13. Rule Series 112 Count Procedures.</i>			<i>Tier</i>
i.	112.10	An <u>[inmate]incarcerated individual</u> shall not cause a miscount.	I, II, III
ii.	112.20	An <u>[inmate]incarcerated individual</u> shall not delay the count.	I, II
iii.	112.21	An <u>[inmate]incarcerated individual</u> shall comply with all	I, II

facility count procedures.

iv.	112.22	An [inmate] <u>incarcerated individual</u> shall not obstruct visibility into his or her cell, room or cube.	I, II
<i>14. Rule Series 113 Contraband.</i>			<i>Tier</i>
i.	113.10	An [inmate] <u>incarcerated individual</u> shall not make, possess, sell or exchange any item that may be classified as a weapon or dangerous instrument by description, use or appearance. A dangerous instrument is any instrument, article or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing bodily harm.	II, III
ii.	113.11	An [inmate] <u>incarcerated individual</u> shall not possess any authorized item that has been altered in any manner so as to change its original intent and/or purpose.	I, II
iv.	113.14	An [inmate] <u>incarcerated individual</u> shall not possess outdated or unauthorized types or quantities of medication, nor shall an [inmate] <u>incarcerated individual</u> sell, exchange or provide any medication to anyone.	I, II
v.	113.15	An [inmate] <u>incarcerated individual</u> shall not purchase, sell, loan, give or exchange a personally owned article without authorization.	I, II
vi.	113.16	An [inmate] <u>incarcerated individual</u> shall not be in possession of stamps in excess of \$22.50 in value, money, credit card, credit card numbers, check or unauthorized valuable or property.	I, II[, III]
vii.	113.17	An [inmate] <u>incarcerated individual</u> shall not be in possession of jewelry other than that which is authorized by the facility.	I, II
viii.	113.18	An [inmate] <u>incarcerated individual</u> shall not be in possession of a tool without authorization.	I, II, III
ix.	113.19	An [inmate] <u>incarcerated individual</u> shall not possess tobacco products in excess of an amount authorized	I, II

by the facility. An [inmate]incarcerated individual may not have more than two packages of cigarettes on his or her person other than for transporting tobacco products from the commissary or package room to the housing unit for storage.

x.	113.20	An <u>[inmate]incarcerated individual</u> shall not possess State clothing or bedding in excess of authorized issue. The altering of State-issued clothing or bedding is prohibited. An <u>[inmate]incarcerated individual</u> shall be required to pay for State clothing or bedding that has been altered without authorization.	I, II
xi.	113.21	An <u>[inmate]incarcerated individual</u> shall not possess literature or any other material which has been disapproved by the Media Review Committee.	I, II
xii.	113.22	An <u>[inmate]incarcerated individual</u> shall not use or possess an article in an area where its use or possession is prohibited.	I, II
xiii.	113.23	In addition to those items of contraband specifically identified by this rule series, an <u>[inmate]incarcerated individual</u> shall not possess any item unless it has been specifically authorized by the superintendent or designee, the rules of the department or the local rules of the facility.	I, II, III
xiv.	113.24	An <u>[inmate]incarcerated individual</u> shall not use or be under the influence of any narcotics or controlled substances unless prescribed by a health service provider and then only in the amount prescribed. <i>Note:</i> For purposes of this rule, a controlled substance is any substance listed in section 3306 of the Public Health Law; section 812 of title 21 of the United States Code; sections 1308.11 through 1308.15 of title 21 of the Code of Federal Regulations; or section 9.1 of Title 10 NYCRR.	I, II
xvi.	113.26	An <u>[inmate]incarcerated individual</u> shall not, without written authorization of the superintendent, solicit, possess or exchange personal identifying information (e.g. social security number, home address, private e-mail address or home telephone number) belonging to a person who is a present or former employee of the department or presently or formerly	II, III

employed in a department facility, or to any member of the person's household, unless the [inmate]incarcerated individual is an immediate family member of such person.

xvii.	113.27	An <u>[inmate]incarcerated individual</u> shall not solicit, possess or exchange any disciplinary or grievance document pertaining to another <u>[inmate]incarcerated individual</u> , or any document which contains crime and sentence information pertaining to another <u>[inmate]incarcerated individual</u> who is not a codefendant, without authorization from the superintendent.	I, II
xviii.	113.28	An <u>[inmate]incarcerated individual</u> shall not possess any description or depiction of any correctional facility; any facility post a description, staffing chart or related document; any Directive with a distribution code of "D" or any corresponding topical manual or facility policy and procedure.	II, III
xix.	113.29	An <u>[inmate]incarcerated individual</u> shall not possess poppy seeds or any product containing poppy seeds.	I, II
xx.	113.30	An <u>[inmate]incarcerated individual</u> shall not possess any Uniform Commercial Code (UCC) article 9 form, including but not limited to any financing statement (UCC1, UCC1Ad, UCC1AP, UCC3, UCC3Ad, UCC3AP, UCC1CAd), correction statement (UCC5) or information request (UCC11), whether printed, copied, typed or hand written, or any document concerning a scheme involving an <u>[inmate]incarcerated individual's</u> "strawmen," "House Joint Resolution 192 of 1933," the "Redemptive Process," "Acceptance for Value" presentments or document indicating copyright or attempted copyright of an <u>[inmate]incarcerated individual's</u> name absent prior written authorization from the superintendent.	I, II
xxi.	113.31	An <u>[inmate]incarcerated individual</u> shall not use, possess or be under the influence of any alcoholic beverage or intoxicant, yeast, or any other fermenting agent.	I, II[, III]

xxii.	113.32	An [inmate]inarcerated individual shall not make, sell, or exchange any alcoholic beverage or intoxicant. Sale or exchange of yeast or any other fermenting agent is prohibited. An [inmate]inarcerated individual shall not conspire with any person to introduce such items into the facility.	I, II, III
xxiii.	113.33	An [inmate]inarcerated individual shall not make, possess, sell or exchange any narcotic, narcotic paraphernalia, controlled substance or marijuana.	I, II, III
xxiv.	113.34	An [inmate]inarcerated individual shall not conspire with any person to introduce any narcotic, narcotic paraphernalia, controlled substance or marijuana into the facility.	I, II, III
<i>15. Rule Series 114 Smuggling.</i>			<i>Tier</i>
i.	114.10	An [inmate]inarcerated individual shall not smuggle or attempt to smuggle or solicit others to smuggle any item in or out of the facility or from one area to another.	I, II, III
<i>16. Rule Series 115 Searches and Frisks.</i>			<i>Tier</i>
i.	115.10	An [inmate]inarcerated individual shall comply with all frisk and search procedures.	I, II[, III]
<i>17. Rule Series 116 Destruction of, Tampering with, and Theft of Property.</i>			<i>Tier</i>
i.	116.10	An [inmate]inarcerated individual shall not lose, destroy, steal, misuse, damage or waste any type of State property.	I, II[, III]
ii.	116.11	An [inmate]inarcerated individual shall not alter, tamper with or attempt to repair any type of State or personal property without authorization.	I, II
iii.	116.12	An [inmate]inarcerated individual shall not alter, forge or counterfeit any document. An [inmate]inarcerated individual shall not distribute or be in possession of any departmental document without authorization.	I, II[, III]
iv.	116.13	An [inmate]inarcerated individual shall not steal, destroy or intentionally damage any property belonging to others or possess any stolen property.	I, II[, III]
<i>18. Rule Series 117 Explosion or Explosive Devices.</i>			<i>Tier</i>

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| i. | 117.10 | An <u>[inmate]incarcerated individual</u> shall not cause or attempt to cause an explosion. The possession of an explosive device, material that can be used to make an explosive device, or material which depicts or describes the construction or use of an explosive device, is prohibited. | II, III |
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19. *Rule Series 118 Creating a Fire, Health or Safety Hazard.*

Tier

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| i. | 118.10 | An <u>[inmate]incarcerated individual</u> shall not start or attempt to start a fire unless directed to do so by facility staff. | II, III |
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| ii. | 118.20 | An <u>[inmate]incarcerated individual</u> shall not tattoo or otherwise permanently mark his or her or another's body, or allow his or her body to be tattooed or permanently marked by another. An <u>[inmate]incarcerated individual</u> shall not be in possession of an instrument or device used for the purpose of making tattoos. | I, II |
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| iii. | 118.21 | An <u>[inmate]incarcerated individual</u> shall not create a fire, health or safety hazard in any area of the facility by improperly storing or using flammable materials or other property, in his or her living quarters or any other area of the facility. | I, II[, III] |
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| iv. | 118.22 | An <u>[inmate]incarcerated individual</u> shall not commit an unhygienic act such as spitting, urinating or defecating on the floor or any other area; propelling urine, feces, bodily fluids, water, or food; or storing urine, feces or bodily fluids. | I, II, III |
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| v. | 118.23 | An <u>[inmate]incarcerated individual</u> shall promptly report illness or injury to a facility employee. | I, II |
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| vi. | 118.24 | An <u>[inmate]incarcerated individual</u> shall follow posted safety regulations. | I, II |
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| viii. | 118.30 | An <u>[inmate]incarcerated individual</u> shall maintain the cleanliness and orderliness of his her living quarters, clothing and person. | I, II |
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| ix. | 118.31 | An <u>[inmate]incarcerated individual</u> shall not alter, rewire, tamper or attempt to repair electrical outlets or any electrical device. | I, II |
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x.	118.32	An [inmate] <u>incarcerated individual</u> shall participate in a fire drill or fire alarm in a prompt and orderly fashion.	I, II
xi.	118.33	An [inmate] <u>incarcerated individual</u> shall not intentionally cause flooding in his or her housing area or other part of the facility.	I, II, III]
<i>20. Rule Series 119 False Alarms.</i>			<i>Tier</i>
i.	119.10	An [inmate] <u>incarcerated individual</u> shall not make a false report of a fire, emergency, disturbance or other threat to the safety of a facility.	II, III
ii.	119.11	An [inmate] <u>incarcerated individual</u> shall not tamper with any fire or extinguishing device unless authorized by a facility staff member.	I, II, III
<i>21. Rule Series 120 Gambling.</i>			<i>Tier</i>
i.	120.20	An [inmate] <u>incarcerated individual</u> shall not engage in any form of gambling, betting or wagering, or be in possession of gambling paraphernalia.	I, II
<i>22. Rule Series 121 Abuse of Telephone Privileges.</i>			<i>Tier</i>
i.	121.10	An [inmate] <u>incarcerated individual</u> shall not communicate by telephone with any department employee without the authorization of the superintendent or designee.	I, II
ii.	121.11	An [inmate] <u>incarcerated individual</u> shall not engage in a telephone call to a telephone number which has been connected through call-forwarding or a call-forwarding service. Telephone calls and telephone conversations shall be restricted to the telephone number dialed or otherwise placed by or for the [inmate] <u>incarcerated individual</u> . Telephone call-forwarding, the use of a call forwarding service or other third-party phone call function, and the use of a credit card to place a call are prohibited.	I, II
iii.	121.12	An [inmate] <u>incarcerated individual</u> shall comply with and follow the guidelines and instructions given by the	I, II

staff regarding facility telephone programs pursuant to the requirements of departmental Directive No. 4423 (7 NYCRR Part 723).

iv.	121.13	An [inmate] <u>incarcerated individual</u> shall not use facility telephones without the authorization of facility staff. An [inmate] <u>incarcerated individual</u> in an outside work gang or other type of supervised community project shall not use an[d] outside telephone without the authorization of facility staff.	I, II
v.	121.14	An [inmate] <u>incarcerated individual</u> shall not exchange a personal identification number (PIN), or use the PIN of another [inmate] <u>incarcerated individual</u> .	I, II
<i>23. Rule Series 122 Smoking.</i>			<i>Tier</i>
i.	122.10	An [inmate] <u>incarcerated individual</u> may only smoke outdoors in designated areas.	I, II
<i>25. Rule Series 124 Mess Hall or Dining Areas.</i>			<i>Tier</i>
iii.	124.12	An [inmate] <u>incarcerated individual</u> shall take all silverware or plasticware offered on the mess hall line and dispose of such items in accordance with facility policy.	I, II
iv.	124.13	An [inmate] <u>incarcerated individual</u> shall attend all mandatory meals as designated by facility policy.	I, II
<i>26. Rule Series 180 Miscellaneous Rules and Regulations.</i>			<i>Tier</i>
i.	180.10	An [inmate] <u>incarcerated individual</u> shall comply with and follow the guidelines and instructions given by staff regarding facility visiting procedures pursuant to the requirements of departmental Directive No. 4403 (7 NYCRR Part 200).	I, II[, III]
ii.	180.11	An [inmate] <u>incarcerated individual</u> shall comply with and follow the guidelines and instructions given by staff regarding facility correspondence procedures pursuant to requirements of departmental Directive Nos. 4422 and 4421 (7 NYCRR Parts 720 and 721).	I, II

iii.	180.12	An <u>[inmate]incarcerated individual</u> shall comply with and follow the guidelines and instructions given by staff regarding facility package procedures pursuant to the requirements of departmental Directive No. 4911 (7 NYCRR Part 724).	I, II
iv.	180.13	An <u>[inmate]incarcerated individual</u> shall comply with and follow the guidelines and instructions given by staff regarding Family Reunion Program pursuant to the requirements of departmental Directive No. 4500 (7 NYCRR Part 220).	I, II[, III]
v.	180.14	An <u>[inmate]incarcerated individual</u> shall comply with and follow the guidelines and instructions given by staff regarding urinalysis testing pursuant to the requirements of departmental Directive No. 4937 (7 NYCRR Part 1020). This includes providing a urine sample when ordered to do so.	I, II[, III]
vii.	180.17	An <u>[inmate]incarcerated individual</u> may not provide legal assistance to another <u>[inmate]incarcerated individual</u> without prior approval of the superintendent or designee. An <u>[inmate]incarcerated individual</u> shall not receive any form of compensation for providing legal assistance.	I, II
viii.	180.18	An <u>[inmate]incarcerated individual</u> shall accept a program assignment in accordance with established facility program committee procedures.	I, II
ix.	180.19	An <u>[inmate]incarcerated individual</u> shall comply with and follow the guidelines and instructions given by staff regarding alcohol screening tests. This includes providing a urine sample or taking a field test when ordered to do so.	I, II[, III]
<i>27. Rule Series 181 Disciplinary Hearings.</i>			<i>Tier</i>
i.	181.10	An <u>[inmate]incarcerated individual</u> shall comply with the dispositions imposed by a hearing officer in a Tier I, Tier II and Tier III hearings.	I, II

Chapter VIII, Part 724

Section 724.2 is amended as follows:

Section 724.2. Applicability

[(a)] This Part applies to all [inmate]incarcerated individuals except for those:

[(1)a] assigned to a special housing unit or in special housing status (see Chapter VI of this Title);

[(2)b] in reception or in-transit status; or

[(3)c] housed in a shock incarceration facility, drug treatment campus, alcohol and substance abuse treatment or work release facility except as may be specifically authorized and limited by the deputy commissioner for correctional facilities.

Subdivision (b) is repealed

Section 724.3, Subdivision (a) is amended as follows:

(a) General

* * *

(3) Articles received in a package must comply with departmental directives concerning packages and personal property limits. Articles received that are not for the [inmate]incarcerated individual's personal use, [or] which cause the [inmate] recipient to exceed the number of allowable packages, weight limits, or in-cell limits, or which otherwise violate departmental directives will not be allowed and will be disposed of in accordance with departmental directives. When an [inmate]incarcerated individual signs for a package, [he or she]the individual will attest that the articles are only for personal use and that receipt will not cause the [inmate]incarcerated individual to exceed personal property limits. If an [inmate]incarcerated individual refuses to sign for a package, it will be disposed of in accordance with the departmental directive on [inmate] personal property limits.

Paragraphs (4), (5), (6), and (8) are repealed

Paragraph (7) is renumbered to Paragraph (4) and is amended as follows:

[(7)4] The department is not responsible for articles damaged in shipping or received in spoiled condition. Spoiled food articles or items which are contaminated or in broken or leaking containers are considered a health risk and will be destroyed by the facility. Such destruction will be recorded on the [inmate]incarcerated individual's package records.

Section 724.3, Subdivision (b), is amended as follows:

(b) Searches for packages.

(1) Packages shall be searched thoroughly to ensure that all articles conform to regulations and departmental directives. Articles will be removed from the original shipping container (box or bag in which the package was shipped or brought into the facility) and inspected visually and/or by use of the x-ray machine. In searching and

examining packages, care shall be taken not to damage or destroy the contents. The shipping container (bag or box) will not be given to the [inmate]incarcerated individual.

* * *

(3) Promotional materials (e.g., prizes, informational discs, etc.) or other non-product items or substances sealed within original packaging or attached to an allowed article will be removed prior to issue. These materials will be disposed of in accordance with the departmental directive on [inmate] personal property limits.

(4) Inspection and processing of religious articles shall be conducted in such a manner as to respect their religious significance. If an article's religious significance is in doubt, the facility chaplain shall be consulted. If an article is suspected of being contraband, it may be tested as appropriate. Articles which are considered or suspected of being contraband or which are under evaluation for authenticity or religious significance shall be secured by the deputy superintendent for security pending disposition and notification of the affected [inmate]incarcerated individual. If the [inmate]incarcerated individual files a grievance within 21 days of receipt of a notice that an article has been denied, such religious article shall be retained by the facility pending the final resolution and closing of the grievance.

(5) Contraband. Contraband articles shall be confiscated and the superintendent or designee notified. Contraband will include any article:

(i) which possession of is prohibited under any law applicable to the general public;

(ii) which is readily capable of being used to cause death or serious physical injury, including but not limited to handguns, shoulder guns, cartridges, knives, explosives, or dangerous drugs; [or]

(iii) which has been introduced into a correctional facility with the intent to transfer it to an [inmate]incarcerated individual without the permission of the superintendent or his or her designee[.];

(iv) which could be utilized to assist or affect an escape or undermine the safety and security and/or practices consistent with the department's mission;
or

(v) which is an approved item but has been altered from its original intent and/or purpose.

(6) Articles not permitted (other than contraband) will be disposed of in accordance with departmental directive.

[(i) When any article which is not permitted is brought by a visitor, it will be returned to the visitor, if possible, upon the visitor's departure from the facility.

(ii) In the case of other articles not permitted, except for any article brought by a visitor and returned to the visitor upon departure from the facility, general confinement inmates (non-restricted inmates) will be given the opportunity to view the disallowed article and then choose a disposal option by signing an authorization for disposal form. If the choice is to ship the article, the inmate will fill out a disbursement form for the cost of the shipping. The package room will send out the package and forward the disbursement form to the business office for processing. If funds are available, the facility business office will deduct the amount of the disbursement from the inmate's account. If funds are not available, the business office will establish an encumbrance for the amount of the disbursement.

(iii) Articles not disposed of or articles brought by a visitor but not returned to a visitor within 14 days will be destroyed or donated to a charity by the facility. It is clearly not the department's intent to give each inmate 14 days (except as provided in this subdivision) to choose a disposal option, requiring storage by the facility. It is the intent that an inmate be given a clear notice that an article is not permitted and a clear opportunity to choose how such an article will be disposed of.]

(7) Articles [will]shall not be altered or modified by the manufacturer or vendor, except for removal of external radio antennas. [Articles will not be altered or modified once they arrive at the facility in order to comply with the specifications set forth in this Part.]

Paragraph (8) is repealed.

Section 724.3, Subdivisions (c), (d), (e), and (f) are repealed.

Section 724.3, Subdivisions (g), (h), (i), and (j) are renumbered to Subdivisions (c), (d), (e), and (f) accordingly.

Section 724.3, Paragraphs (2), (3), and (4) of newly renumbered subdivision (c) are repealed and newly renumbered subdivision (c) is amended as follows:

[(g)c] Package Records.

[(1)]All articles received shall be recorded [on package forms with the sender's name and address and the name and department identification number (DIN) of the inmate recipient]in accordance with departmental directive.

Section 724.3, Paragraph (2) of newly renumbered subdivision (d) is repealed and newly renumbered subdivision (d) is amended as follows:

[(h)d] Loss of package privileges.

[(1)]Packages received for an [inmate]incarcerated individual serving a disciplinary disposition which includes “loss of package privileges” will be handled [as follows:]in accordance with departmental directive.

[(i) packages brought by visitors - shall be returned to the visitor;

(ii) packages received by mail:

(a) from a publisher - shall be given to the inmate subject to the provisions of Part 712 of this Title, “Media Review;”

(b) from other commercial sources:

(1) if ordered by the inmate and approved by the business office prior to the disciplinary disposition, the package shall be issued to the inmate. Otherwise, the package shall be returned to sender; and

(2) if ordered by family or a correspondent, the package shall be handled as set forth in clause (c) of this subparagraph;

(c) from all other sources:

(1) if received during first five days of “loss of packages” - shall be delivered to the inmate unless the inmate has been confined in a special housing unit; and

(2) if received after first five days of “loss of packages,” - shall be returned to sender unopened.]

Section 724.3, Paragraph (2) of newly renumbered subdivision (e) is repealed and newly renumbered subdivision (e) is amended to read as follows:

[(i)e] Packages received for [inmate]incarcerated individuals in SHU.

[(1)]Pending disciplinary action, or during first five days of a “loss of packages” disposition: Package items, except for books, periodicals, legal materials and perishables, shall be placed in the [inmate]incarcerated individual’s property and added to the [inmate]incarcerated individual’s property transferred inventory form; books, periodicals and legal materials may be given to the [inmate]incarcerated individual subject to the limitations in Chapter VI of this Title, but perishables shall be disposed of in accordance with the departmental directive on [inmate] personal property limits.

Section 724.3, Paragraphs (1) and (2) of newly renumbered subdivision (f) are repealed and newly renumbered subdivision (f) is amended as follows:

([j]f) Packages received for [inmate]incarcerated individuals transferred or temporarily absent from the facility shall be handled in accordance with departmental directives.

Section 724.4, Subdivision (a), Paragraphs (1), (2), (3), (4), and (5) are repealed and Subdivision (a) is amended to read as follows:

(a) Certain articles cannot be approved department-wide because of programmatic and physical plant characteristics of individual facilities. In order that those locations which can accommodate special articles are not governed by those which cannot, each facility [may]shall consider the issuance of "local permits" in accordance with [the following:]departmental directives.

Section 724.4, Subdivision (b), Paragraphs (1), (2), (3), and (4) are repealed and Subdivision (b) is amended to read as follows:

(b) Each superintendent is required to maintain a current list of all approved local permits[to include:].

Section 724.5 is amended as follows:

Section 724.5. Listing of approved items and disposal procedures

[(a)]The department shall [promulgate]maintain a departmental directive concerning the receipt of packages, including a detailed listing of items approved for receipt by [inmate]incarcerated individuals through facility package rooms, and policy for the disposal of disallowed packages and items, which. This listing]shall be [appended to the departmental directive #4911, "Packages and Articles Sent or Brought to Institutions," made] available to [inmate]incarcerated individuals in all facility libraries, posted in all facility package rooms and visiting rooms, and posted on the department's website.[at www.docs.state.ny.us/directives/4911.pdf]

Subdivisions (b) and (c) are repealed

Chapter VI, Part 300-302 and 304

Section 300.2, Subdivision (b) is amended as follows:

(b) A special housing unit (SHU), in maximum security facilities as well as in designated medium security facilities, shall consist of single- or double-occupancy cells grouped so as to provide separation from the general population, and may be used to house [inmate]incarcerated individuals confined to such units pursuant to Part 301 of this Title[as well as such other inmates as approved by the commissioner or his designee].

Section 301.1 is amended as follows:

Section 301.1. Purpose

Incarcerated individuals may be admitted to special housing units for any of the several situations described in this Part. Incarcerated individuals in special populations as defined in 7 NYCRR § 1.5 shall not be placed in segregated confinement for any length of time.

[No incarcerated individual may be placed in segregated confinement as a result of a disciplinary hearing, administrative segregation, protective custody, keeplock, or other admissions in accordance with Section 301.7 for longer than necessary and: (i) effective on and after October 1, 2022, for no more than ninety (90) days; (ii) effective on and after April 1, 2023, for no more than sixty (60) days; and (iii) effective on and after October 1, 2023, for no more than thirty (30) days. Upon reaching this limit, the incarcerated individual must be released from segregated confinement or diverted to a residential rehabilitation unit or a step-down unit. Such admission to a residential rehabilitation unit or step-down unit shall occur as expeditiously as possible and in no case longer than seventy-two hours from the time transfer should occur]No incarcerated individual may be placed in segregated confinement (SHU) for longer than necessary and for no more than 15 consecutive days or 20 total days in any 60-day period, except where a specific act constitutes a violent felony act, if occurring more than once in a 60-day period, the incarcerated individual may serve an additional 15 consecutive days but must spend at least 15-days in a Residential Rehabilitation Unit (RRU) in between each placement in SHU. Incarcerated individuals will be transferred or moved to an RRU if they have additional confinement time after completing 15-days in SHU.

Section 301.3, Subdivision (a) is amended as follows:

(a) Detention admissions may be used in the following cases:

(1) in the case of an [inmate]incarcerated individual who is awaiting initial appearance before or determination of a [disciplinary hearing or]superintendent's hearing[;], if a security supervisor, with written approval of the superintendent or designee, reasonably believes the person fits the criteria for segregated confinement in subparagraph (ii) of paragraph (k) of section one hundred thirty-seven of the Correction Law.

[(2) in cases where an inmate is received from another correctional facility and his record in the other facility raises a reasonable question as to whether he presently is ready to adhere to the department's rules and policies governing inmate behavior; or

(3) in cases where an inmate is awaiting transfer from Southport Correctional Facility or a double-celled SHU.]

Subdivision (b) is repealed.

Subdivision (c) is renumbered subdivision (b) and newly renumbered subdivision (b) is amended to read as follows:

([c]b) In the case of any detention admission, if a misbehavior report has been issued, the provisions of section 251-2.2 of this Title shall be applicable. [If a misbehavior report or a notice directing involuntary protective custody or administrative segregation has not been issued,] If pursuant to Part 251-1.6 (b) of this title, the facility's deputy superintendent of security or a watch commander shall review the detention admission [inmate]incarcerated individual's status at least once every 24 hours.

Section 301.4 is repealed.

Section 301.5 is repealed.

Section 301.6 is repealed.

Section 301.7 is repealed.

Section 302.1, Subdivision (i) is amended as follows:

(i) *Other privileges.*

(1) Visiting. Except as otherwise provided by this Part, no [inmate]incarcerated individual shall be deprived of the visiting privileges available to [inmate]incarcerated individuals in the general population.

(i) One nonlegal visit per week will be permitted during visiting hours scheduled by the facility. There will be no limits on the number of legal visits, subject to reasonable scheduling.

(ii) Visits for persons in special housing units shall be in accordance with any special precautions deemed necessary or appropriate by the superintendent of the facility. Such special precautions may include, but are not limited to, restriction to noncontact visiting for all visits or with a specified visitor or visitors; denial of visiting with a specified visitor or visitors; or other special precautions to maintain the safety, security or good order of the department or its correctional facilities. However, no employee shall be permitted to monitor the content of conversation between an [inmate]incarcerated individual and his legal or spiritual advisor.

(iii) An [inmate]incarcerated individual serving a penalty of confinement to a special housing unit pursuant to Part 254 of this Title shall be subject to the provisions regarding visitation contained in this Part, regardless of the location of actual confinement.

(2) [Telephone calls are prohibited, except for emergency calls and legal telephone calls as approved by the superintendent.] An incarcerated individual shall be permitted to make at least one personal phone call within twenty-four

hours of placement in segregated confinement, and at weekly intervals thereafter for the duration of such confinement, except when doing so would create an unacceptable risk to the safety and security of incarcerated individuals or staff. Emergency and legal telephone calls are permitted, as approved by the superintendent.

(3) No packages may be received at any time by an [inmate]incarcerated individual in an SHU except [books, periodicals and legal materials.]in accordance with departmental directive 4933.

Section 304.1 is amended to add a new subdivision (c) as follows:

(c) Incarcerated individuals in segregated confinement shall be offered out-of-cell programming at least four hours per day, including at least one hour for recreation. However, if an incarcerated individual commits a specific act while housed in a SHU and poses a significant risk, their participation in certain programs may be restricted but they must still be provided with at least 4 hours out-of-cell time daily, of which 2 hours are therapeutic programming and 2 hours of recreation.

Section 304.2, Subdivisions (b), (c), (d), (e), and (f) are repealed.

Section 304.3 is amended as follows:

Section 304.3. Exercise

[Inmate]incarcerated individuals confined in the SHU must be permitted one hour of outdoor exercise daily, exclusive of the time it takes to go to and return from the exercise area, beginning on the day following admission.

(a) [Inmate]incarcerated individuals normally will be offered the opportunity for outdoor exercise despite weather conditions. If during the exercise period the weather significantly deteriorates, the [inmate]incarcerated individual may request and shall be permitted to return to his/her cell. If this occurs, the outdoor exercise opportunity for that day will be considered to have been satisfied.

(b) Except at double-celled SHU's, coats and galoshes or rubbers will be maintained on the unit and will be provided during exercise periods in the event of cold or inclement weather.

(c) On those rare occasions when the weather so reduces visibility that it significantly impacts the ability of security staff to visually observe the exercise area (i.e., fog, blizzard, etc.), exercise may be curtailed for the duration of the extreme weather conditions by issuance of a deprivation order in accord with section 305.2 of this Title.

(d) An inmate may be deprived of daily exercise by a deprivation order issued in accord with section 305.2 of this Title. This shall be requested when the supervisor in charge of the SHU determines that an inmate presents a threat to the safety, security

or good order of himself/herself, other persons, or State property, and the use of restraints will not adequately address the problem.]

Section 304.4, Subdivisions (a), (b), (c), and (d) are amended as follows:

(a) A qualified medical practitioner (physician, physician's assistant, registered nurse) will be required to examine each [inmate]incarcerated individual upon admission to an SHU in accord with section 302.1(b) of this Title.

(b) A qualified medical practitioner (as listed above) is required to visit the SHU once in every 24-hour period to examine into the state of health of the [inmate]incarcerated individuals confined in such unit.

(c) Sick call will be conducted daily.

(1) The officer in charge will prepare a list of all [inmate]incarcerated individuals who request to see a medical practitioner.

(2) Any [inmate]incarcerated individual who requests to see a medical practitioner will be permitted an opportunity to do so in accord with all good security precautions.

(3) The medical encounter will be recorded in each [inmate]incarcerated individual's medical file and in the appropriate SHU file.

(d) If an [inmate]incarcerated individual has a medical complaint, requests health services other than at sick call, or a medical emergency occurs, the facility health services unit will be contacted immediately. The response/action taken by health services staff shall be logged.

Subdivision (e) is repealed.

Subdivision (f) is renumbered Subdivision (e) and newly renumbered Subdivision (e) is amended as follows:

([f]e) To the extent consistent with the safety and good order of the facility, staff shall respect an [inmate]incarcerated individual's right to privacy during medical encounters and the confidential nature of communications between [inmate]incarcerated individuals and health care providers.

Section 304.7 is amended to add new Subdivision (h) as follows:

(h) Incarcerated individuals may utilize law library tablets in accordance with departmental directive 4933.