

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>Personnel</u> STATEMENT NUMBER <u>2.16</u>
SUBJECT: <b>RULES AND GUIDANCE FOR DOC EMPLOYEES</b>  PROPONENT: <u>Lisa Currier, Administrator</u> <i>Name/Title</i> <u>Human Resources</u> <u>271-5640</u> <i>Office</i> <i>Phone #</i>	EFFECTIVE DATE <u>06/01/05</u>  REVIEW DATE <u>08/15/06</u>  SUPERCEDES PPD# <u>2.16</u>  DATED <u>09/01/03</u>
ISSUING OFFICER:   <hr/> <i>Stephen J. Curry, Commissioner</i>	DIRECTOR'S INITIALS _____ DATE                    _____  APPENDIX ATTACHED: YES                    _____ NO                    _____
REFERENCE NO:        See reference section on last page of PPD.	

I. PURPOSE:

To establish the policies and rules, together with some background, for the guidance of departmental employees. Failure through omission or commission to follow and abide by these requirements, or additional requirements lawfully established by intermediate supervisors, may result in adverse personnel action up to and including immediate dismissal under the rules of the New Hampshire Division of Personnel.

II. APPLICABILITY:

To all staff

III. POLICY:

It is the policy of the Department of Corrections that:

- A. Integrity, respect and professionalism are the values all DOC employees are expected to embrace and adhere to while carrying out the mission of the department. Further, all employees are expected to be forthright, honest, and truthful with those they come in contact with whether it be the staff of other agencies, the general public or colleagues from within the department.
- B. All employees conduct themselves at all times within generally accepted ethical principles that will reflect credit on the Corrections profession generally and the department more specifically.
- C. All employees, while working, will interact with inmates, members of the public, co-workers and management in positive, supportive and cooperative way.
- D. Those charged with enforcing the law avoids violating the law. For the purposes of this policy, those charged with enforcing the law includes all employees of the Department of Corrections. We must conduct our personal and professional affairs in such a way as to live within the law and the behavioral expectations of the public for whom we serve in our respective professional capacities. The illegal use of drugs, intemperate use of alcohol, disregard of traffic laws and regulations or violations of other laws will be dealt with in keeping with the Division of Personnel's Rules and Regulations and the policies of this department.

- E. The department has a zero tolerance policy on sexual harassment, sexually harassing conduct or sexual misconduct. This policy incorporates the State of New Hampshire Sexual Harassment policy. Additionally, sexual misconduct or sexual harassment against inmates whether committed by supervisory or non-supervisory personnel, volunteers, contractors or others who have access to the correctional facilities is prohibited. Sexual misconduct can be a violation of RSA 632-A:2 and 3 and result in criminal prosecution. Persons who engage in such conduct with inmates can be dismissed, criminally prosecuted and barred from DOC facilities.
- F. A Department employee shall not be employed in any position that places the employee, directly above or under in the chain of command of any immediate family member. Nor shall an employee, directly be placed above or under the chain of command of any immediate family member of the employee's spouse or co-habitant.

An employee who becomes romantically involved with another in the chain of command, directly shall notify the Unit Administrator in writing in order for management to make assignments consistent with the principles noted above and the mandates of public and institutional safety. Similar principles shall also apply to the supervision of contract employees and the awarding of; or the advocacy for, the award of a contract to related parties as noted above.

Immediate family members are defined as: mother, father, sister, brother, spouse, children, stepchildren, son, daughter, grandchildren, grandmother, and grandfather.

Direct supervision is when a management official/supervisor is the immediate authority in an employee's chain of command and who is responsible for recommending or taking personnel management actions effecting the employment status and responsibilities of the employee, including but not limited to; duty assignments, caseloads, transfers, promotions, disciplinary action, leave approval, evaluations, pay increases, etc.

#### IV. PROCEDURES:

- A. When violations, or suspected violations of this policy occur, this and any other applicable Departmental Policies, the Rules of the Division of Personnel and any other applicable regulation, rule, statute or law shall be followed.
- B. Should it be determined that further investigation of an employee violation is to be undertaken, the provisions of Article XXVII (27.22) of the Collective Bargaining Agreement shall apply as follows:
  1. All investigations shall be confidential;
  2. A written notification is to be provided to the employee Should the Commissioner, Warden, Director or other appropriate designated authority determine that further investigation of an alleged within 7 working days from the opening of an investigation by the respective Warden, Director or other appropriate designated authority. Notification shall include the allegation(s) subject to investigation;
  3. An investigation will be completed as soon as possible, but no later than 45 work days from the opening of the investigation unless the Commissioner authorizes an extension. Any notice of extension shall be in writing to the employee before the expiration of the 45-day period and shall include all of the reasons and its duration; and
  4. Final findings of the investigation report will be directed to the Warden/Director for appropriate action and filed with the Commissioner.
- C. If upon review and/or investigation, it is determined that a rule violation did take place, the Warden/Director will decide what corrective action is appropriate. If the Warden/Director decides that counseling is all that is required, then, in most instances, but not necessarily all, a memo may be issued to the employee and/or a notation made on the employee's next performance evaluation.
- D. If the Warden/Director determines that the incident is serious enough or has been preceded by other incidents of a similar or serious nature and, therefore, official disciplinary action is

necessary, then such action will be in keeping with the Rules of the Division of Personnel and other applicable law.

- E. The foregoing policies and procedures are intended to ensure that reported infractions committed by staff members are fully investigated and that appropriate actions are taken.
- F. All of the duties and powers enumerated in RSA 622:39 apply to all employees, in addition to the uniformed force of the prisons, who is designated by the Commissioner as a member of the New Hampshire State Prison security force. This includes uniformed officers, of all prisons, SPU and Probation/Parole Officers.
- G. All of the duties and powers enumerated in RSA 21-H:8, VIII applies to all employees who are assigned principal duties as probation/parole officers, and additionally to such other employees, full or part time, who are designated as probation/parole officers as an additional duty. Certification by the Police Standards and Training Council as a full time or part time police officer or certification by the Commissioner shall be required before exercising arrest or firearms authority.
- H. This policy will be followed in addition to PPD 2.39 concerning matters of sexual harassment.
- I. This policy will be followed in addition to PPD 2.30 concerning matters of ethical misbehavior.
- J. This policy will be followed in addition to Division of Personnel Rule PER 202 concerning the employee settlement and grievance process.
- K. This policy will be followed in addition to PPD 2.13 concerning Substance Abuse Testing for pre-employment.

V. POLICY VIOLATIONS:

**Any employee who violates, including but not limited to, any provisions outlined below may be subject to DISCIPLINARY ACTION UP TO AND INCLUDING IMMEDIATE DISMISSAL from employment under this policy and the Rules of the Division of Personnel.**

1. Absence Without Approved Leave: Employees who are, through their own fault, not at the place where they are required to be at a prescribed time are considered absent without approved leave and in violation of this policy.
2. Malingering: Any employee who feigns an illness, injury or physical disability for the purpose of obtaining sick leave, preferential duty assignment or to avoid a duty assignment is malingering and in violation of this policy.
3. Dereliction of Duty: Employees are derelict in their duties when they willfully or negligently fail to perform them, or when they perform them in a culpably inefficient manner. A duty may be imposed by regulation, lawful order, policy statement, or custom. Examples include, but are not limited to, sleeping on duty, failure to complete required duties, failure to take appropriate action or failure to properly prepare to perform the duty as directed. Any employee who is derelict in their duty is in violation of this policy.
4. Failure to obey a Written Order, Regulation or Directive Issued by Appropriate Authority: Any employee who fails to obey a written order, regulation or directive issued by the appropriate authority is in violation of this policy. For purposes of definition, the term "appropriate authority" includes all persons to whom the employee is subordinate to and has the responsibility to obey.
5. Failure to Obey an Oral Order of a Superior: Failure to obey an oral order by refusal or omission constitutes an intentional defiance of authority and is an offense under this policy. A superior is defined as any person senior in grade or rank to the person to whom the order is given. In some circumstances an officer of equal or lesser grade may be a person's superior officer when so designated by a superior and appropriate authority.
6. Failure to Assist an Employee in a Hazardous Situation: Any employee who fails to immediately render all practical assistance to another employee who is in danger of physical harm or who is attempting to subdue an unruly inmate or offender has violated this policy.
7. Incapacitation for Duty: Any employee found to be incapacitated while on duty is in violation of this policy. For purposes of this policy, it is immaterial whether the incapacitation is due to the consumption of liquor or drugs. Any incapacitation that is sufficient to impair the full

- exercise, no matter how slight, of the mental or physical faculties, of an employee is considered incapacitation within the meaning of this policy. The fact that a person consumed liquor or drugs before going on duty does not affect the application of this policy.
8. Loss, Damage, Destruction, Theft or Wrongful Disposition of State Property: Any employee who, willfully or through carelessness or negligence, causes or permits the loss, damage, destruction, theft, or wrongful disposition of property belonging to the State of New Hampshire is in violation of this policy. Employees are expected to safeguard state property in whatever form and it is a violation to divert state property to a use other than for which it is intended. State property may not be disposed of except pursuant to State rules. Employees may not give away or accept state property for private use except when authorized to do so.
  9. Loss, Damage, Destruction, Theft or Wrongful Disposition of Property Belonging to Another: Any employee who willfully or through negligence causes or permits the loss, damage, destruction, theft or wrongful disposition of property belonging to another employee, a person under departmental control, or any other property is in violation of this policy.
  10. Making False Official Statements: Any employee who makes an official statement that they know to be false or misleading is in violation of this policy.
  11. Failure to Report or Act Upon an Infraction of Rules Committed by a Person under Departmental Control: Any employee who observes or has knowledge of an infraction by a person under departmental control and who willfully or through negligence fails to take appropriate corrective action and/or fails to submit a required report of the infraction to a responsible superior is in violation of this policy.
  12. Permitting a Prisoner/Patient to Escape Through Neglect or Design: Any employee who performs their duties in such a lax manner as to permit the escape of a prisoner/patient or who willfully or through neglect fails to take all necessary steps to prevent the escape of an inmate/patient, or to effect their recapture, is in violation of this policy.
  13. Abuse of a Person Under Departmental Control: Any employee who assaults or strikes a person under departmental control, subjects them to improper punishment or deprives them of benefits without justifiable cause may be charged with abuse of a person under departmental control and is in violation of this policy. This rule does not preclude employees from defending themselves from attack or utilizing the force reasonably necessary to subdue unruly persons or to prevent an escape.
  14. Improper Conduct in the Presence of a Person Under Departmental Control: Any employee who, in the presence of a person under departmental control, makes derogatory remarks about other employees, departments, boards, law enforcement agencies or agency policies is in violation of this policy.
  15. Improper Communications to a Person Under Departmental Control: Any employee who knowingly conveys to a person under departmental control any information of a confidential or restricted nature is in violation of this policy. For purposes of definition, the term "information of a confidential or restricted nature" denotes any information, verbal or written, which is intended for the use of staff members only.
  16. Undue Familiarity with Persons Under Departmental Control and their Families: Employees shall not become unduly familiar with persons under departmental control or their families. Undue familiarity includes unprivileged touching, kissing, groping or hugging. Nor shall employees permit persons under departmental control or their families to become unduly familiar toward them. Employees will not maintain off duty contact with persons under departmental control or their families without written permission from the Commissioner, and must report in writing to Investigation whenever a friend or family member becomes a person under departmental supervision.

Staff is prohibited from becoming overly familiar with persons under departmental control. Conduct between a staff member and a person under departmental control has or is likely to result in intimacy or a close personal association, or conduct that is contrary to the good order of the facility is a violation of this policy.

17. Sexual contact is prohibited. Conduct by staff engaging in or attempting to engage in any act including intentional touching either directly or through the clothing of a person under departmental control with the intent to abuse, humiliate, harass, degrade, arouse or gratify the sexual desire of any person or physical contact including fondling, kissing, indecent exposure or other indecent sexual behavior by staff in the presence of a person under departmental control is a violation of this policy.
18. Giving, Selling or Accepting items from or to Persons Under Departmental Control: No employee shall give or sell anything to a person under departmental control, or buy, sell, or accept anything from or to persons under departmental control or their families or extend to them any favors without permission of the Commissioner.
19. Correspondence with persons under departmental control or their families: No employee, except those required to do so in performance of their regular duties shall correspond with persons under departmental control or their families.
20. Misconduct and Duty to Report Misconduct: Any person who, while employed by the Corrections Department, is found guilty in a Court of law of a misdemeanor or a felony may be in violation of this policy. The fact that the offense may have been committed while the employee was in a non-duty status is immaterial. A domestic violence related conviction, or for that matter any conviction, could result in decertification. It is a duty requirement that employees report to their supervisors when they are charged with a misdemeanor or felony, as well as, reporting the outcome of such charges.  
  
Failure to report is a violation of this policy.
21. Failure to Report an Offense: Any employee who observes or has knowledge of a violation of any rule specified in this policy and who willfully or through negligence fail report the offense to a responsible superior is in violation of this policy.
22. Obstructing Investigative Activity: Any employee who is advised that an investigation is in progress and who fails to report their knowledge of the matter under investigation violates this policy. Whether the investigation is internal within the Department or being conducted by  
  
the State Police, Attorney General's Office or other legally constituted investigative body is immaterial. It is the duty of all employees to be cooperative, factual and truthful during the course of an investigation. Failure to do so constitutes a violation of this policy.
23. Attempting, Aiding or Conspiring to Commit an Offense: Any employee who attempts, aids, or conspires to commit a violation of any of the rules specified above maybe guilty of and is subject to the same disciplinary action that would result from the commission of the act itself.
24. Use of Firearms While on Duty: Only departmentally owned properly issued firearms will be carried or used on duty by departmental employees unless written authority from the Commissioner is obtained to carry or use privately owned firearms.
25. Appearance while on Duty: Employees are expected to look neat and well groomed at all times while on duty. Failure to do so could be construed as a violation of this policy.
  - a. Uniforms: Uniforms and/or special work clothing provided by the State of New Hampshire may be worn to and from work and home. The use or wearing of such uniforms or clothing for other functions or at other times is specifically prohibited.
  - b. Non-Uniformed Employees: For all non-uniformed employees, appropriate professional attire is expected. Supervisors will take steps to assure employees' attire reflects the professionalism and pride of the Department of Corrections. For examples of appropriate and inappropriate attire please refer to PPD 2.29 Guidelines for Professional Attire. Failure to enforce this policy or failure to dress professionally is a violation of this policy.
26. Intemperance Not Tolerated: It shall be the duty of every employee to report any other employee who is under the influence of intoxicants or drugs, or suffering from the effects of overindulgence of intoxicants or drugs when reporting to duty. Supervisors of employees apparently unfit for duty will remove them from duty.
27. Introduction, Possession, or Consumption of Alcohol or Drugs: The introduction, possession, or consumption of ardent spirits, wine, beer, or ale, or non-prescribed drugs

- upon any occasion by any employee in or about any departmental facilities is prohibited.
28. Communicating Confidential Law Enforcement Information: Departmental employees shall refrain from discussing confidential law enforcement information with others who have no official interest. Failure to do so will be considered a violation of this policy.
  29. Inappropriate Conduct or Language: Employees will refrain from demeaning and belittling talk, horseplay, boisterous conduct and profane or indecent language in dealing with persons under departmental control and within the public view. Failure to do so will be considered a violation of this policy.
  30. Conduct: Employees of the department are to conduct themselves at all times with mutual kindness and respect, and are required to strictly avoid collusion, jealousies and strife that may affect their duty performance.
  31. Attention to Duty: Employees are required to give their entire time and attention to their duties during their hours of employment. Employees shall not engage in distracting amusement or occupation while on duty. Participating in or organizing any illegal activity to include, but not limited to gambling or participating in games of chance is prohibited.
  32. Performance of assigned duties: Every employee shall be held responsible for the efficient punctual performance of all duties assigned and for the proper supervision of persons under departmental control.
  33. Support of Programs: As an employee, it is your duty to support all programs of the department.
  34. Dissemination of Certain Information: Information relative to law enforcement and security matters and individual persons under departmental control must be authorized and disseminated through the Commissioner's Office. Employees are prohibited from imparting information of this nature to media or other persons not officially connected with law enforcement without prior approval of the Commissioner. Media inquiries will be referred to the Commissioner's Office.
  35. Failure to Follow the Policies and Procedures: Failure to follow any and all policies and procedures of the Department of Corrections may result in disciplinary action against the employee and is a violation of this policy.
  36. Exceptions: Only the Commissioner may authorize exceptions to any of the foregoing.

#### REFERENCES:

Standards for the Administration of Correctional Agencies,  
Second Edition. Standards  
**2-CO-1C-04; 2-CO-1C-20**

Standards for Adult Correctional Institutions  
Fourth Edition. Standards  
**4-4063**

Standards for Adult Probation and Parole Field Services,  
Third Edition. Standards  
**3-3069**

Standards for Adult Community Residential Services  
Fourth Edition. Standards  
**4-ACRS-7E-10**

#### Other:

**RSA 21-H:8, VIII**  
**RSA 622:28**  
**RSA 622:39**  
**RSA 504-A 11-12a**  
**Rules of the Division of Personnel (by reference only)**  
**PPD 2.29 Guidelines for Professional Attire**

CURRIER/pf