

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE 08/01/2013	NUMBER 01.04.110
	SUBJECT ADMINISTRATIVE RULES, POLICIES AND PROCEDURES	
SUPERSEDES 01.04.110 (07/01/2007)		AUTHORITY MCL 791.203, 1969 PA 306, MCL 24.201 <i>et seq</i>
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POLICY STATEMENT:

The Department's administrative rules, policy directives, Director's Office Memoranda (DOMs), and operating procedures shall be prepared and issued as set forth in this policy directive.

POLICY:

GENERAL INFORMATION

- A. All employees are to be informed of Department policies as well as necessary procedures to carry out these policies. Non-compliance with Department policy may leave the Department liable and employees vulnerable to prosecution and civil suit, as well as disciplinary action. Failure to follow policy may also result in an employee not being represented by the Department of Attorney General or not being indemnified by the Department if a monetary judgment is obtained against the employee as set forth in PD 02.01.102 "Litigation - Department and Employee Responsibilities".

ADMINISTRATIVE RULES

- B. An administrative rule is promulgated under the Administrative Procedures Act (APA), 1969 PA 306, MCL 24.201 *et seq*, and has the full force of law. Some policy directives and DOMs are based on an administrative rule although the administrative rule always takes precedence. The Policy Section in the Office of Legal Affairs, Budget and Operations Administration (BOA), is responsible for the promulgation of the Department's administrative rules and maintaining all relevant documents relating to the promulgation process.

POLICY DIRECTIVES AND DOMS

- C. Department policy is contained in policy directives and DOMs, which are signed by the Director. Both set forth the Department's position on a given subject. Each policy directive and DOM derives authority from statute, administrative rule, or court order, and must be consistent with applicable statutes and administrative rules. A policy directive or a DOM may be necessary to clarify or implement an administrative rule. The Policy Section is responsible for writing all policy directives and DOMs, and maintaining all original policy directives and DOMs issued by the Director.

Development and Revision of Policy Directives

- D. Executive Policy Team (EPT) members are responsible for advising the Administrator of the Office of Legal Affairs of the need to prepare or revise a policy directive which affects their respective administrations. The EPT member requesting that a policy directive be prepared or revised shall designate a contact person knowledgeable of the subject addressed in the policy directive to work with the Policy Section to develop the policy directive. The contact person also shall be responsible for approving the content of the draft policy directive in a timely manner.
- E. The Policy Section may send drafts of proposed new and revised policy directives to the Executive Policy Team members, Administrative Management Team members, and Wardens for review and comment, identifying the date by which comments are due. Department administrators receiving draft policy directives for comment shall ensure that appropriate staff in their respective areas have an opportunity to review the drafts and provide comment. Department administrators shall review the comments received and send relevant comments to the Policy Section by the date specified in the transmittal.

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- F. The Policy Section may send additional persons or organizations drafts of new or revised policy directives that are not exempt from disclosure under the Freedom of Information Act (FOIA) for review and comment. The decision on whether a policy directive is exempt shall be made by the Director or designee.
- G. Comments received on a draft policy directive shall be incorporated into the policy draft by the Policy Section, as appropriate. The contact person for the policy directive shall be consulted on any substantive issues raised.
- H. A Policy Review Committee, if established, may meet with Policy Section staff, the contact person, the EPT members whose administrations are directly affected by the policy directive, and other designated staff to review each draft policy directive before it is submitted to the Director. The Committee, if established, shall be chaired by the Administrator of the Office of Legal Affairs and include the Administrative Assistant to the Director, the Administrator of the Internal Audit Division, and any other members as designated by the director.
- I. Notwithstanding Paragraphs E, F, and H, a policy directive may be issued without distribution for comment and/or without submission to the Policy Review Committee, as determined by the Administrator of the Office of Legal Affairs. In such cases, EPT members whose administrations are directly affected by the policy directive shall be responsible for approving the content of the draft policy directive before it is submitted to the Director.
- J. Policy directives shall be self audited as set forth in PD 01.05.100 "Self Audit of Policies and Procedures". The Policy Section shall develop a Primary Audit Elements List for each new or revised policy directive. The List shall be available to staff responsible for ensuring compliance with the policy.

Development of DOMs

- K. The Director may issue a DOM instead of a policy directive to set forth new or revise existing policy. All requests for a DOM shall be submitted by the appropriate EPT member to the Administrator of the Office of Legal Affairs. A DOM shall be in effect only for the calendar year in which it is issued, and must be subsequently incorporated into policy no later than January of the upcoming year unless rescinded by the Director.

OPERATING PROCEDURES

- L. An operating procedure implements, and derives authority from, an administrative rule, a policy directive, or a DOM. If an operating procedure is required to implement a policy directive or DOM, that requirement shall be set forth in the policy directive or DOM.
- M. An operating procedure is not to be issued as a substitute for an administrative rule, policy directive, or DOM. Procedures identify who does what and when to implement a rule, policy directive, or DOM; however, the "who does what" format need only be used when specific positions have responsibility for different tasks. All operating procedures shall be formatted consistent with requirements set forth by the Administrator of the Office of Legal Affairs and have assigned a unique identifying number.
- N. Each Administration is responsible for preparing its own operating procedures. Whenever an operating procedure crosses administration lines, content approval is required from affected EPT members or designees. Authors of operating procedures are encouraged to solicit input from employees and organizations affected by the procedure for consideration of appropriate revisions.
- O. Wardens and, with approval of the Deputy Director of Correctional Facilities Administration (CFA), other administrators (e.g., Regional Prison Administrator, Regional Health Administrator) may issue procedures which only affect their respective institutions or regions. Operating procedures issued by a Warden or other CFA administrator shall not conflict with those issued by the Director. All other operating procedures may be issued only by the Director; such procedures shall be forwarded by the appropriate EPT member to the Administrator of the Office of Legal Affairs for submission to the Director.
- P. Each Warden and other CFA administrator authorized to issue operating procedures shall ensure that the original of each operating procedure s/he issues is retained. The Administrator of the Office of Legal Affairs shall be responsible for retaining all other operating procedures.

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DISTRIBUTION

- Q. In conjunction with the Department of Technology, Management and Budget, the Administrator of the Office of Legal Affairs shall be responsible for maintaining a Document Access System (DAS), or successor system, by which employees may electronically access various Department documents, including the Department's administrative rules, policy directives, DOMs, and operating procedures. Only staff trained in DAS entry shall enter documents into DAS.
- R. The Manager of the Policy Section shall ensure that all new or revised Department administrative rules, policy directives, DOMs, and operating procedures issued by the Director are promptly entered onto DAS. The Manager of the Policy Section also shall ensure that notice of each new or revised rule, policy directive, DOM, or operating procedure issued by the Director is sent to Executive Policy Team members, Administrative Management Team members, Wardens, and to all other employees with Department e-mail access; notice also shall be sent to appropriate collective bargaining units, and, for non-exempt policy directives and operating procedures, to courts and other governmental agencies requesting notification.
- S. Each Warden and other CFA administrator authorized to issue operating procedures shall ensure that all operating procedures s/he issues are distributed either through DAS or through other appropriate means (e.g., printed copy) in a timely manner to all staff affected by the procedure.
- T. All current Department administrative rules, policy directives, DOMs, and applicable operating procedures shall be readily available to all employees. Employees who do not have access to DAS but are designated to receive policy directives, DOMs, and/or operating procedures shall maintain updated manuals for these documents.
- U. EPT members, Administrative Management Team members, and Wardens shall ensure that their employees have been fully advised as to the content of all new and revised administrative rules, policy directives, DOMs, and operating procedures which affect their area of responsibility. Wardens shall assume this responsibility for all Department employees whose worksite is located within their respective facilities (e.g., Michigan State Industries staff, Health Unit Manager). Wardens and other facility heads shall ensure this process is documented in writing (e.g., "read and sign").

VARIANCES

- V. A variance is a temporary deviation from a specific policy requirement and may be granted only by the Director. A request for a variance shall be submitted on a Request for Policy Variance (CAJ-296) through the appropriate chain of command to the Administrator of the Office of Legal Affairs for submission to the Director. The Administrator of the Office of Legal Affairs shall ensure that all approved variances are entered onto DAS and shall be responsible for retention of the original signed variance.

DOCUMENTATION SYSTEM NOTICE

- W. A Notice shall be issued to rescind a DOM, policy directive, or operating procedure. An operating procedure issued by a Warden or other CFA administrator may be rescinded only by the appropriate administrator. Only the Director may rescind a DOM, policy directive, or another operating procedure; the Notice shall be prepared by the Policy Section. If the DOM, policy directive or operating procedure crosses administration lines, approval shall be obtained from the appropriate EPT members or designees prior to its rescission.
- X. If a Warden or other CFA administrator rescinds an operating procedure issued locally for his/her facility or region, s/he shall ensure DAS is updated, as appropriate, by staff trained in DAS entry. The Policy Section shall be responsible for updating DAS whenever a DOM, policy directive, or other operating procedure is rescinded.
- Y. A Notice also may be issued by the Administrator of the Office of Legal Affairs or designee to explain substantive revisions to a policy directive or DOM, or to correct a typographical or other non-substantive error.
- Z. Each Warden and other CFA administrator shall be responsible for retaining the original of each Notice s/he issues. The Policy Section shall retain all other Notices.

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ANNUAL REVIEW

- AA. Each EPT member shall ensure that a review is conducted at least annually of all policy directives and operating procedures which directly affect his/her operations or responsibilities to identify those in need of substantive revision. As part of this review, input shall be obtained from appropriate staff and, on policies and procedures affecting safety and security, from collective bargaining unit staff representatives. If a policy directive is determined to be in need of substantive revision, a request to revise the policy directive shall be submitted to the Office of Legal Affairs as set forth in Paragraph D.
- BB. Each EPT member shall submit written confirmation of the completion of the annual review to the Director no later than April 15 of each year.

OPERATING PROCEDURES

- CC. The Administrator of the Office of Legal Affairs and Wardens shall ensure that procedures are developed to implement requirements set forth in this policy directive; this shall be completed within 60 calendar days after the effective date of the policy directive. This requirement includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed. Facility procedures shall not conflict with procedures issued by the Director.

AUDIT ELEMENTS

- DD. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: DHH 07/08/13