

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE 01/11/2021	NUMBER 01.04.110
	SUBJECT ADMINISTRATIVE RULES, POLICIES, AND PROCEDURES	
SUPERSEDES 01.04.110 (08/10/2020)		AUTHORITY MCL 791.203, 1969 PA 306, MCL 24.201 <i>et seq.</i>
PAGE 1 OF 4		

POLICY STATEMENT:

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

POLICY:

GENERAL INFORMATION

- A. All employees shall be informed of Department policy directives, operating procedures, DOMs, and administrative rules issued by the Department. All current Department policy directives, operating procedures, variances, DOMs, and administrative rules shall be readily available to all employees. 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."
- B. The decision on whether a policy directive, operating procedure, or DOM is exempt shall be made by the Director or designee. If a policy directive, operating procedure, or DOM is marked exempt, it shall not be disclosed in response to a Freedom of Information Act (FOIA) request. Authorization from the Office of Legal Affairs (OLA) Administrator must be obtained before any exempt policy directive, operating procedure, or DOM is released outside of the Department.
- C. The Procurement Monitoring and Compliance Division (PMCD) Administrator, in consultation with OLA Administrator, may allow exempt policy directives, operating procedures, and/or DOMs to be reviewed by contractors and vendors who are bidding on contracts. Review of exempt policy directives, operating procedures, and/or DOMs by contractors or vendors shall only take place during an on-site visit to an MDOC location, and the exempt policy, operating procedure, and/or DOM shall not be released to the contractor or vendor.

ADMINISTRATIVE RULES

- D. 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(s). The Policy Section in OLA, 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. Recommendations for changes to administrative rules shall be approved by the appropriate Executive Policy Team (EPT) member and forwarded in writing through the chain of command to the OLA Administrator.

POLICY DIRECTIVES, MANUALS, AND DOMS

- E. Policy directives and DOMs are documents that set forth the Department's position on a given subject and are signed by the Director. 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 Director's approval is also required for any revisions to the Transportation, Absconder Recovery Unit (ARU), Emergency Response Team (ERT), and Ordnance Manuals, as well as any other manual as determined by the Director. The Policy Section is responsible for writing all policy directives and DOMs, and for retaining all original policy directives and DOMs issued by the Director.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 01/11/2021	NUMBER 01.04.110	PAGE 2 OF 4
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- F. A DOM provides new information not contained in a current policy directive or revises an existing policy directive. A DOM is typically used when immediate changes are required to an existing policy directive and the entire policy directive cannot be updated by the date the changes need to be implemented. All requests for a new or revised DOM shall be approved by the appropriate EPT member and forwarded to the Policy Section. A DOM shall be in effect only for the calendar year in which it is issued but may be renewed each January by the Director.

Development and Revision of Policy Directives

- G. An EPT member or designee is responsible for informing the Policy Section of the need to prepare a new or revised policy directive that affects their respective administration. The EPT member shall designate a contact person knowledgeable of the subject matter to work with the Policy Section to develop or revise the policy directive. The contact person, EPT member, and the OLA Administrator shall be responsible for approving the content of draft policy directives prior to going out for review as identified in Paragraph H.
- H. The Policy Section may send drafts of proposed new and revised policy directives to the EPT 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 with their policy contact person and forward comments that they approve of to the Policy Section by the date specified in the transmittal.
- I. The Policy Section may send drafts of new or revised policy directives to additional individuals for review and comment.
- J. Comments received regarding a draft policy directive may be incorporated into the policy draft by the Policy Section. The contact person for the policy directive shall be consulted on any substantive issues raised.
- K. A Policy Review Committee may be established by the Policy Section Manager to review draft policy directives before submission to the Director for signature. Revisions to the Transportation, ARU, and Ordnance Manuals, as well as any other manual as determined by the Director, may also be reviewed by the Policy Review Committee prior to being sent to the Director for signature. The Committee shall be chaired by the Policy Section Manager or designee and include the Deputy Directors, OLA Administrator, Administrator of the Offender Success Administration, Policy Specialist, contact person identified for the policy directive, Performance Audit Specialist, and any other members as designated by the Policy Section Manager or designee.
- L. A policy directive may be issued without distribution for comment and/or without submission to the Policy Review Committee, as determined by the OLA Administrator or designee. Regardless, in all cases, EPT members whose administrations are directly affected by the policy directive shall be responsible for approving the content of the final draft policy directive before it is submitted to the Director.
- M. Policy directives shall be self-audited as set forth in PD 01.05.100 "Self-Audits and Performance Audits." The Policy Specialist, in consultation with the Performance Audit Specialist, shall develop a Primary Audit Elements List for new or revised policy directives if necessary. The list shall be available to staff responsible for ensuring compliance with the policy.

VARIANCES

- N. A variance is a temporary or permanent change to a specific policy or operating procedure 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 OLA Administrator or designee for submission to the Director. In order to be processed by OLA, the form must contain justification for the variance and appropriate administrative signatures. The Policy Section Manager shall ensure that all approved variances are entered into the Document Access System (DAS) and shall be responsible for retaining all original signed copies. When a policy directive or operating procedure has a permanent variance, the Policy Section shall incorporate the variance into the policy or operating procedure the next time it is revised.

OPERATING PROCEDURES

- O. An operating procedure is a document that sets forth the specifics on how a policy directive is to be carried out.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 01/11/2021	NUMBER 01.04.110	PAGE 3 OF 4
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The operating procedure details who, what, where, when, and how the goals of the policy directive are to be accomplished. An operating procedure shall not exist without a corresponding policy directive and derives authority from a policy directive or a DOM.

- P. An operating procedure shall not be issued as a substitute for an administrative rule, policy directive, or DOM. All operating procedures shall be formatted consistently with requirements set forth by the OLA Administrator and have an identifying number assigned based on the policy from which it derives its authority.
- Q. 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.
- R. Wardens and other administrators may issue local operating procedures that only affect their respective areas. Local operating procedures issued by a Warden or other administrator shall not conflict with any existing policy directive and/or statewide operating procedure. All statewide operating procedures shall be approved by the appropriate EPT member and the Director.
- S. Each Warden and other administrator authorized to issue local operating procedures shall ensure that the original of each local operating procedure is retained. OLA staff shall be responsible for retaining all statewide operating procedures.

DISTRIBUTION

- T. OLA staff shall be responsible for maintaining the Document Access System (DAS), or any successor system, by which employees may electronically access various Department documents, including the Department's administrative rules, policy directives, DOMs, variances, and statewide operating procedures. Only staff trained in DAS entry shall enter documents into DAS.
- U. The Manager of the Policy Section shall ensure that all new or revised Department administrative rules, policy directives, DOMs, variances, 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 all Department employees with Department e-mail. All Department employees are responsible for reviewing updated administrative rules, policy directives, operating procedures, and DOMs. Wardens and other administrators shall confirm that their employees have reviewed all new and revised administrative rules, policy directives, variances, DOMs, and operating procedures by having them complete the read and sign in Attachment A. 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.
- V. Each Warden and other administrators authorized to issue local operating procedures shall ensure that all operating procedures they issue 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.

RESCISSION

- W. Only the Director may rescind a DOM, policy directive, or statewide operating procedure. The notice of rescission for these items shall be prepared by the Policy Specialist. The Policy Section Manager shall ensure DAS is updated whenever a DOM, policy directive, or other statewide operating procedure is rescinded.
- X. If a Warden or other administrator rescinds an operating procedure issued locally for their facility or administration, they shall ensure DAS is updated, as appropriate, by staff trained in DAS entry.

POLICY REVIEW

- Y. Administrators shall review all policy directives that affect their area at least every three years. The administrator shall forward substantial revisions to the appropriate EPT member for approval. When an EPT member becomes aware that a policy directive that affects their area is in need of substantial revisions, a request to revise the policy directive shall be submitted to the Policy Section as set forth in Paragraph G.

DOCUMENT TYPE POLICY DIRECTIVE	EFFECTIVE DATE 01/11/2021	NUMBER 01.04.110	PAGE 4 OF 4
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OPERATING PROCEDURES

- Z. If necessary, to implement requirements set forth in this policy, Department heads shall ensure procedures are developed or updated.

AUDIT ELEMENTS

- AA. 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-Audits and Performance Audits."

ATTACHMENTS

Attachment A - Read and Sign

APPROVED: _____
Heidi E. Washington, Director Date