


NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>Personnel</u> STATEMENT NUMBER <u>2.16</u>
SUBJECT: RULES AND GUIDANCE FOR DOC EMPLOYEES PROPONENT: <u>Lynmarie Cusack, Director</u> <i>Name/Title</i> <u>Commissioner's Office 271-5603</u> <i>Office Phone #</i>	EFFECTIVE DATE <u>05/31/2019</u> REVIEW DATE <u>05/31/2021</u> SUPERSEDES PPD# <u>2.16</u> DATED <u>12/1/2013</u>
ISSUING OFFICER:  <i>Helen E. Hanks, 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 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 (NHDOC) that:

- A. Integrity, respect and professionalism are the values all NHDOC 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 residents, members of the public, co-workers and management in a positive, supportive and cooperative way.
- D. Those charged with enforcing the law avoid violating the law. For the purposes of this policy, those charged with enforcing the law includes all employees of the NHDOC. 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's

Sexual Harassment Policy. Additionally, sexual misconduct or sexual harassment against residents whether committed by supervisory or non-supervisory personnel, volunteers, contractors or others who have access to the correctional facilities is prohibited. Staff sexual misconduct can result in criminal prosecution and disciplinary sanctions up to and including termination, which is the presumptive disciplinary sanction for staff who engage in sexual abuse. The evidentiary standard in determining whether allegations of sexual abuse or sexual harassment are substantiated is a preponderance of evidence.

- F. A departmental 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.
- G. An employee who becomes romantically involved with another in the chain of command shall notify their Human Resources Coordinator 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.
- H. Immediate family members are defined as:
 1. Husband;
 2. Wife;
 3. Legal Civil Union partners;
 4. Children, either natural, adoptive or step;
 5. Mother, either natural, adoptive or step;
 6. Father either natural, adoptive or step;
 7. Grandparents either natural, adoptive or step;
 8. Brothers either natural, adoptive or step;
 9. Sisters either natural, adoptive or step;
 10. Aunts;
 11. Uncles;
 12. Brother's spouse;
 13. Sister's spouse; and
 14. Grandchildren.
- I. 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, the Rules of Police Standards and Training Council 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 the current Collective Bargaining Agreements 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 incident is warranted 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;
 - 4. Final findings of the investigation report will be directed to the Commissioner.
- C. If upon review and/or investigation it is determined that a rule violation did take place, the Commissioner and/or Warden/Director will decide what corrective action is appropriate. If it is decided 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 Commissioner and/or Warden/Director determine that the incident is serious enough or has been followed 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 (http://www.gencourt.state.nh.us/rules/state_agencies/per.html), the Rules of Police Standards and Training Council (http://gencourt.state.nh.us/rules/state_agencies/pol.html) 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, community corrections facilities, Secure Psychiatric Unit, Residential Treatment Unit 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 205 concerning the employee settlement of disputes process.
- K. This policy will be followed in addition to PPD 2.13 concerning Pre-Employment/Staff Substance Abuse Testing.

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 within your chain of command who is senior in grade or rank to the person to whom the order is given. Directors and Administrators whom through their responsibilities and accountabilities will be recognized as crossing over all chains of command. 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 resident 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 incapacitated 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 that 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 resident, 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 Resident: Any employee who observes or has knowledge of an infraction by a resident 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 Resident/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 resident/patient or who willfully or through neglect fails to take all necessary steps to prevent the escape of a resident/patient, or to effect their recapture, is in violation of this policy.
13. Abuse of a Resident: Any employee who assaults or strikes a resident, subjects them to improper punishment or deprives them of benefits without justifiable cause may be charged with abuse of a resident 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 Resident: Any employee who, in the presence of a resident, 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 Resident: Any employee who knowingly conveys to a resident 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 that is intended for the use of staff members only.
 16. Undue Familiarity with Residents and/or Families: Employees shall not become unduly familiar with residents or their families. Undue familiarity includes unprivileged touching, kissing, groping or hugging. Nor shall employees permit residents or their families to become unduly familiar toward them. Employees will not maintain off duty contact with residents or their families without written permission from the Commissioner, and must report in writing to Investigation and the Commissioner whenever a friend or family member becomes a resident or person under department supervision.
 - a. Staff is prohibited from becoming overly familiar with residents. Conduct between a staff member and residents 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.
 - b. If an employee, who makes appropriate timely notice in writing to the Commissioner and Investigations, when a friend or family member becomes a resident or person under department supervision, is seeking visit contact, the privilege of correspondence and/or permission to post funds in a friend or family members trust fund account, they will seek written permission from the Warden/Director for visits per PPD 7.09 and will seek Commissioner and Director of Professional Standards permission in writing to correspond and/or post funds. These parties in turn will respond in writing with a cc: to Investigations in order to track all authorizations to the requesting employee.
 - c. An employee, who has a friend or family member under departmental control or supervision is not to engage in a review of electronic files or paper files associated with this contact and shall defer all needs to do so associated with their job expectations to their supervisor in order to reduce issues of concerns associated with ethics and/or boundary violations. In all other circumstances, an employee is not to be monitoring activities associated with friend or family member's information tracked by the Department in any software or paper system used to conduct departmental business.
 - d. An employee, who has a friend or family member under departmental control or supervision, who has a concern about departmental practices shall send documented concerns to the Warden/Director of the area of responsibility associated with their concerns for triage without disregard for the procedures outlined in PPD 1.16 Complaints and Grievances by residents.
 - e. An employee should practice sound judgement in also making written notice to Investigations and the Commissioner if a person becomes incarcerated or under supervision that they had a significant past professional association with that may jeopardize departmental safety or their ability to successfully perform their duties as required by the Department.
 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 resident or person under department supervision 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 with a resident or person under

- department supervision is a violation of this policy and potentially a violation of State and Federal law which could result in criminal charges.
18. Alerting Staff of Supervisory Rounds: Employees are prohibited from alerting other staff members of supervisors conducting unannounced rounds unless such announcement is related to the safe operational functions of the facility.
19. Giving, Selling or Accepting items from or to Residents or Persons Under Department Supervision: No employee shall knowingly give or sell anything to a resident or person or department supervision, or buy, sell, or accept anything from or to residents or persons under department supervision or their families or extend to them any favors without permission of the Commissioner.
20. Correspondence with Residents/Persons Under Department Supervision or their Families: No employee, except those required to do so in performance of their regular duties shall correspond with residents or persons under department supervision or their families unless written permission has been granted pursuant to #16 above.
21. 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 and Police Standard and Training Council Administrative rules. 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 any conviction, could result in decertification. It is a duty requirement that employees report to their supervisors and human resources with immediacy when they are taken into custody by law enforcement and/or charged with a misdemeanor or felony, as well as, reporting the outcome of such charges.
Failure to report is a violation of this policy and a violation of New Hampshire Police Standards and Training Council Administrative Rules POL 501.01 Report of Arrests.
22. Failure to Report an Offense: Any employee who observes or has knowledge of a violation of any departmental policy or rule specified in this policy and who willfully or through negligence fail to report the offense to a responsible superior is in violation of this policy.
23. 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 any 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. In addition, pursuant to State Personnel Administrative Rule Per 1002.08, obstructing an internal investigations may be grounds for dismissal.
24. 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, may be guilty of and is subject to the same disciplinary action that would result from the commission of the act itself.
25. 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.
26. 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.
27. 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. See PPD 2.13 for guidance.
28. 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 facility is prohibited.
 29. 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.
 30. Inappropriate Conduct or Language: Employees will refrain from demeaning and belittling talk, horseplay, boisterous conduct and profane or indecent language. Failure to do so will be considered a violation of this policy.
 31. 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 or their co-workers duty performance.
 32. 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.
 33. 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 residents.
 34. Support of Programs: As an employee, it is your duty to support all programs of the Department.
 35. 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.
 36. 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.
 37. Exceptions: Only the Commissioner may authorize exceptions to any of the foregoing.

REFERENCES:

ACA

ACI - 4-4069 A written code of conduct shall require employees to conduct themselves and perform their duties in such a way as to set a good example for prisoners and thereby command their respect. The code of conduct shall prohibit employees from using their official position to secure privileges for themselves or others and from engaging in activities that constitute a conflict of interest. This code is available to all employees.

4-ACRS-3A-07 Employees model desired behaviors in accordance with a facility's code of conduct. Employees reinforces proper offender behavior and corrects offender misbehavior.

Other:

RSA 21-H:8, VIII

RSA 622:39

RSA 504-A 11-12a

Rules of the Division of Personnel (http://www.gencourt.state.nh.us/rules/state_agencies/per.html)

Rules of the New Hampshire Police Standards and Training Council

(http://www.gencourt.state.nh.us/rules/state_agencies/pol.html)

PPD 2.29 Guidelines for Professional Attire
PPD 5.19 Prison Rape Elimination Act Procedures

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