

Notice of Change/Withdrawal

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-208.002 Rules of Conduct

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 47 No. 09, January 14, 2021 issue of the Florida Administrative Register.

The following changes were precipitated by comments received from the Joint Administrative Procedures Committee in a letter dated January 29, 2021.

33-208.002 Rules of Conduct

The Department of Corrections requires all employees to familiarize themselves with all rules and regulations pertaining to their positions and duties, and requires all employees to abide by these rules and regulations. The following rules of conduct and performance standards are applicable to all employees both on and off the job. Some of these rules of conduct are restated in abbreviated form in Rule 33-208.003, F.A.C. However, all rules of conduct, procedures, post orders, regulations, directives and policy statements are enforceable by appropriate disciplinary action ~~even if not listed in Rule 33-208.003, F.A.C.~~

(1) Each warden, officer-in-charge, circuit administrator, supervisor, or designated central office staff shall be responsible for ensuring that each employee under his or her supervision, before assuming the duties of his or her employment, is familiar with all rules and regulations of the Department that pertain to such employee and to the protection, custody, control, care, and treatment of persons under his or her supervision. Employees shall familiarize themselves with ~~Each employee shall keep himself or herself completely familiar~~ and comply with all such rules procedures, post orders, regulations, directives and policy statements ~~and regulations~~ during his or her employment. Copies of the rules and regulations shall be made available for inspection by all employees.

(2)(a) Each employee shall make a full written report of any of the following within 24 hours or upon reporting to work for his or her next assigned shift, whichever is sooner when:

1. A criminal charge was filed against the employee, or the employee becomes aware that he or she is the principal in a criminal investigation.

2. through 5. No Change.

(b) No Change.

(3)(a) All employees shall keep themselves physically fit and mentally alert, shall perform their duties fairly and impartially, and shall conduct themselves both on-duty and off-duty so as to command the respect of fellow employees, inmates, offenders subject to community supervision, and the general public. Each employee's conduct shall at all times maintain ~~be consistent with the maintenance of~~ proper security and welfare of Department institutions, ~~and~~ facilities, grounds, buildings, property, inmates, and offenders subject to community supervision.

(b) through (c) No Change.

(4) No change.

(5) through (6) No Change.

(7) Upon proper notice to an employee occupying state-owned housing, such housing is subject to reasonable inspections at least annually for maintenance and sanitation purposes. "Proper notice" for the purpose of maintenance and sanitation inspections pursuant to this section is notice given at least 12 hours prior to the entry.

(8) No change.

(9) No employee shall report for duty or exercise supervision or control over any person while under the influence of a narcotic, barbiturate, hallucinogenic drug, central nervous system stimulant, or any intoxicant. However, in the event any of the foregoing is legally prescribed and administered to an employee, the employee shall report this to the circuit administrator, officer-in-charge, or supervisor and provide him or her with a prescription receipt detailing the type of medication, the dosage, and the possible side effects. The circuit administrator, officer-in-charge, or supervisor, taking into consideration the potential side effects and their possible impact on the employee's duties, shall then determine whether the employee can perform his or her duties without detrimental effect. No employee shall refuse to submit to a blood alcohol test, ordered by a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question, to measure the employee's alcohol blood level when reporting for duty or while on duty if the circuit administrator, officer-in-charge, or supervisor has reason to believe that the employee is under the influence of alcohol. Such a reason to

believe that an employee is under the influence of alcohol is based upon the following factors:

a. observable phenomena while at work, such as direct observation of alcohol use or the physical symptoms or manifestations of being under the influence of alcohol including without limitation, slurred speech, bodily odor, inability to walk a straight line/staggered gait, exaggerated or excited state of emotions, abnormal, bizarre or erratic behavior, involvement in a physical or verbal altercation, rapid and/or dramatic mood swings or significant deterioration in work product;

b. information obtained from a reliable and credible source which has been independently corroborated, such as through the discovery of physical evidence;

c. observation or evidence of the possession, sale, solicitation, transfer, ingestion of alcohol during working hours or while on the Department premises or while operating the Department's vehicles, machinery, or equipment;

d. possession of paraphernalia normally associated with improper or unauthorized use of alcohol; and/or

e. a traffic or occupational accident where one or more of the above factors is present.

(10) through (26) No change.

(27)(a) through (27)(c) No Change.

(d) Based on the criteria set forth ~~for the~~ below, when authorized Department staff suspects that an employee is involved in the unauthorized or unlawful possession or movement of any unauthorized item into or out of a Department institution or facility, the officer-in-charge may request authorization from the warden or duty warden to conduct a more intensive search than is normally required. An intensive search may include a search of the employee's person, including the visual inspection of an employee's unclothed body, and the search of the employee's vehicle and any locker, desk, or storage space assigned to or used by the employee.

(e) An intensive search of an employee's vehicle or any locker, desk, or storage space assigned to or used by the employee shall only be authorized by the warden or duty warden based on one or more of the following:

1. through 2. No Change.

3. Credible information compiled, analyzed, or disseminated in an effort to anticipate, prevent, or monitor criminal activity obtained from the Department's Office of Intelligence, or a federal, state, or local law enforcement agency that has been vetted through the Department's Office ~~office~~ of Inspector General.

(f) through (l) No Change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09, 944.14, 944.35, 944.36, 944.37, 944.38, 944.39, 944.47, 945.025 FS. History—New 10-8-76, Amended 10-11-77, 4-19-79, 6-18-83, Formerly 33-4.02, Amended 8-15-89, 10-20-90, 3-20-91, 1-30-96, 3-24-97, 4-19-98, Formerly 33-4.002, Amended 7-17-02, 4-5-04, 4-17-06, 11-6-08, 3-9-10, ____.