

December 3, 2020

NOTICE OF CHANGE

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.314

RULE TITLE: Rules of Prohibited Conduct and Penalties for Infractions

RULE NO.: 33-601.800

RULE TITLE: Close Management

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. 46 No. 196, October 7, 2020 issue of the Florida Administrative Register.

The following changes were precipitated by comments received from the Joint Administrative Procedures Committee in a letter dated October 23, 2020, and comments received at a public hearing held on November 12, 2020.

33-601.314 Rules of Prohibited Conduct and Penalties for Infractions.

Section 1 through ~~10~~ ~~44~~ below show the maximum penalties allowed for the listed offenses. Section ~~11~~ ~~42~~ shows the penalties that will be imposed for the listed offenses based on the time since an inmate's last disciplinary infraction absent a statement in the written findings of the disciplinary team or hearing officer justifying an upward deviation. As used in this rule, "DC" means the maximum number of days of disciplinary confinement that may be imposed, and "GT" means the maximum number of days of gain time that may be taken. The imposition of DC and GT penalties are independent of one another and do not have to be imposed together; i.e., an inmate may be placed in DC without losing GT, and vice versa.

Maximum Disciplinary
Actions

SECTION 1 through SECTION 2

No change.

SECTION 3 – CONTRABAND – ANY ARTICLE NOT SOLD IN THE CANTEEN, OR
ISSUED BY THE INSTITUTION, OR FOR WHICH YOU DO NOT HAVE A SPECIFIC

PERMIT AUTHORIZED BY THE INSTITUTION WHERE PRESENTLY HOUSED

3-1 through 3-7 No change.

3-8 Possession of negotiables – unauthorized amounts of cash where cash is permitted, any amount of cash where cash is not permitted, another other inmate’s canteen coupons, another other inmate’s cashless canteen or identification cards or gift certificates, checks, credit cards, or any other negotiable item which is not authorized 30 GT

3-9 Possession of unauthorized or altered identification – driver’s license, social ~~Social~~ security card, cashless canteen identification card, etc. 30 GT

3-10 through 3-17 No change.

SECTION 4 through SECTION 10

No change.

~~SECTION 11 – SUPERVISED COMMUNITY RELEASE PROGRAM VIOLATIONS~~

~~11-1 Violation of the terms and conditions of the Supervised Community Release Agreement assignment to a designated facility 10 DC + 15 GT + removal from the Supervised Community Release Program and assignment to a designated facility~~

~~11-2 Absconding from the Supervised Community Release Program 10 DC + 15 GT~~

SECTION ~~11~~ 11 PENALTY SCALE

(1) through (2) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.115, 944.14, 944.279, 944.28 FS.

History–New 3-12-84, Amended 1-10-85, Formerly 33-22.12, Amended 12-30-86, 9-7-89, 11-22-90, 6-2-94, 10-1-

95, 3-24-97, 7-9-98, 8-13-98, Formerly 33-22.012, Amended 9-30-99, 6-7-00, 4-18-02, 10-10-04, 1-9-05, 4-17-05, 6-5-05, 10-27-05, 10-12-06, 11-8-07, 5-18-08, 11-9-08, 5-11-09, 12-12-10, 10-1-11, 6-18-13, 11-14-13, 11-4-14, _____

33-601.800 Close Management.

(1) Definitions.

(a) through (b) No change.

(c) Critical Event – involvement of a CM inmate in one or more of the following events or behaviors:

assignment to suicide observation status, homicide, attempted homicide, escape, attempted escape, physical or sexual assault or battery, or attempted physical or sexual assault or battery.

(d) through (t) No change.

(2) through (7)

(8) Behavioral Risk Assessment (BRA).

(a) The MDST shall determine the behavioral risk of each CM inmate by completing a BRA on Form DC4-729 or other validated risk assessment instrument. Form DC4-729 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 S. Calhoun St., Tallahassee, FL 32399,

<http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>

<http://www.flrules.org/Gateway/reference.asp?No=Ref-01965>. The effective date of the form is XX/XX 4-8-04.

(b) through (f) No change.

(9) through (10) No change.

(11) Programs and Privileges in Close Management Units.

(a) While in CM, an inmate's movement within the institution and contacts with other individuals will be restricted. An inmate's privileges will ~~also~~ be limited depending on the specific CM level to which the inmate is assigned. If an inmate transfers to a less restrictive level due to satisfactory adjustment, the adjustment period required for any privilege shall be waived. Upon placement in CM, inmates shall receive a copy of the Close Management Housing Unit Instructions, Form NI1-046. Form NI1-046 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 S. Calhoun St., Tallahassee, FL 32399,

<http://www.flrules.org/Gateway/reference.asp?No=Ref-01973>. The effective date of the form is 9-29-11 3-10-05.

(b) through (d) No change.

(12) through (15) No change.

(16) Review of Close Management Status.

(a) through (d) No change.

(e) The SCO shall conduct an onsite interview with each inmate at least once every six months or as often as necessary to determine if continuation, modification, or removal from CM status is appropriate. The SCO shall review all reports prepared by the ICT concerning an inmate's CM status and, if applicable, disciplinary confinement status, consider the results of BRAs, mental health evaluations, and any other information relevant to institutional adjustment, staff and inmate safety, and institutional security. The SCO shall interview the inmate unless exceptional circumstances exist or the inmate is approved for release to general population. If it is determined that no justifiable safety and security issues exist for the inmate to remain in CM, the SCO shall cause the inmate to be immediately released. For an inmate to remain in CM, the SCO must determine based on all available ~~relevant~~ information that there are safety and security issues or other circumstances that justify ~~for~~ maintaining the inmate at the current level or at a modified level of CM. If applicable and in accordance with Rule 33-602.222, F.A.C., the SCO shall determine whether the inmate is to continue in or be removed from disciplinary confinement status. The SCO's decisions shall be documented in OBIS and on Form DC6-233C. The SCO shall advise the inmate of its decision.

(f) through (g) No change.

(17) through (18) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 2-1-01, Amended 12-16-01, 4-8-04, 3-10-05, 4-9-06, 8-23-07, 4-27-08, 6-28-10, 4-6-11, 7-31-11, 1-4-12, 12-9-12, 12-24-13, 3-6-14, 8-17-16, _____

_____.

In addition, because Forms DC4-729, Behavioral Risk Assessment, and Form NII-046, Close Management Housing Unit Instructions, are incorporated by reference in Rule 33-601.800, F.A.C., language to that effect will be added to the footer of the forms. The following amendment will also be made to the first paragraph of Form DC4-729:

Instructions: A behavioral risk assessment (BRA) is to be completed on each team-decision CM inmate, as follows: within 14 days of CM placement; within 120 days of the initial assessment; every 180 days thereafter; and within three (3) work days of a critical event as defined in Rule 33-601.800, F.A.C. (~~escape, escape attempt, homicide,~~

~~homicide attempt, physical assault, physical assault attempt, assignment to suicide observation status~~). Note that the BRA shall be completed at above intervals regardless of S-grade or housing assignment. Record rating for each risk factor; multiply the rating by the assigned weight to determine score for each factor; sum all scores to obtain total score. Any risk factor with a rating of 2 or higher must be addressed on the individualized service plan, if the inmate is classified S-2 or higher. The total score and individual risk factor ratings/scores are intended to be used with other pertinent information for service planning and administrative decision making. Original to be filed in the Mental Health Evaluations section of the health record, with copy to the confidential section of the master (classification) file.