

October 7, 2013

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

RULE NO.:      RULE TITLE:

33-602-220      Administrative Confinement

33-602.222      Disciplinary Confinement

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to update the definition of a major rule violations; to provide for documentation that an inmate was given the opportunity to contact expected visitors in the event the inmate is placed in administrative confinement; to shift authority from the State Classification Office (SCO) to the Warden for certain confinement extensions and reviews; to delete the definition of SCO; to add a definition for the Offender Based Information System (OBIS); to provide that the Warden will visit certain inmates in disciplinary confinement; to provide for updates to OBIS in certain circumstances; and to transfer authority from the SCO to the Warden for reviewing certain reports concerning certain inmates in confinement.

SUBJECT AREA TO BE ADDRESSED: Administrative and disciplinary confinement

RULEMAKING AUTHORITY: 944.09, FS

LAW IMPLEMENTED: 20.315, 944.09, 945.04 FS

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND TO OBTAIN A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Paul Vazquez, 501 South Calhoun Street, Tallahassee, Florida 32399.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.220 Administrative Confinement.

(1) Definitions.

(a)-(n) No change.

(o) Major rule violation – means any assault, battery or attempted assault or battery; any intentional lewd or lascivious exhibition in the presence of staff or visitors; any spoken or written threat towards any person; inciting or

attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.

(2) Procedure for Placement in Administrative Confinement.

(a) No change.

(b) When a decision is made to place an inmate in administrative confinement, the reason for such placement shall be explained to the inmate and the inmate shall be given an opportunity to present verbal comments on the matter. The inmate shall also be allowed to submit a written statement. Prior to placing the inmate in administrative confinement, the inmate shall be given a pre-confinement health assessment to include a physical and mental health evaluation that shall be documented in the health care record. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C. When an official places an inmate in administrative confinement, this action shall be documented in the electronic classification contact log in OBIS. This entry shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement and a summary of the inmate's comments. The reason must correspond with one of the criteria for placement provided in subsection (3) of this rule. This electronic entry shall be completed the same day the inmate is placed into confinement, and will establish the ICT 72-hour review appointment as well as document that the inmate was given the opportunity to make a phone call to expected visitors if time does not permit contact by mail prior to the planned visit. Any written statements provided by the inmate shall be forwarded to the ICT for their consideration during the forthcoming 72-hour review.

(c) No change.

(3) Reasons for Placement in Administrative Confinement with time limits. Placement of an inmate in administrative confinement is authorized for the following reasons:

(a)-(d) No change.

(e) An investigation, evaluation for change of status or transfer is pending and the presence of the inmate in the general population might interfere with that investigation or present a danger to the inmate, other inmates, or to the security and order of the institution. An investigating officer shall have the authority to request that the senior correctional officer place the inmate in administrative confinement for this reason and the length of time spent in this status shall not exceed 15 working days unless one 5 working day extension is granted by the ICT. This extension shall be documented on the Daily Record of Special Housing, Form DC6-229. If it is necessary to

continue the inmate's confinement beyond this first extension, written authorization must be obtained from the Warden SCO for a 30 day extension. This authorization shall be attached to the Form DC6-229. The Warden SCO shall have the authority to authorize one additional 30 day extension. Examples of circumstances for placing an inmate in administrative confinement for this reason include:

1.-4. No change.

(f) No change.

(4)-(7) No change.

(8) Review of Administrative Confinement.

(a)-(c) No change.

(d) The Warden State Classification Office (SCO) shall review such reports and may interview the inmate before determining the final disposition of the inmate's administrative confinement status.

(9)-(10) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History—New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, 1-19-03, 4-1-04, 3-5-06, 10-31-06, 4-8-08, 6-25-08, 6-8-09, 7-5-10, 10-7-12,\_\_\_\_\_.

33-602.222 Disciplinary Confinement.

(1) Definitions

(a)-(k) No change.

~~(4) State Classification Office (SCO) refers to a staff member at the central office level responsible for the review of inmate classification decisions including approving, modifying or rejecting ICT recommendations.~~

~~(l)(m) Housing Supervisor – the correctional officer sergeant, or above, who is in charge of the disciplinary confinement unit for a particular shift.~~

(m) Offender Based Information System (OBIS) – refers to an electronic data system used by the Department of Corrections to record and retrieve offender information.

(2)-(6) No change.

(7) Visits to Disciplinary Confinement.

(a) The following staff members shall be required to officially inspect and tour the disciplinary confinement unit. All visits by staff, other than the 30 minute checks described in subparagraph 1. below, shall be documented on the Inspection of Special Housing Record, Form DC6-228. Form DC6-228 is incorporated in Rule 33-601.800, F.A.C. The staff member shall also document his or her visit on the Daily Record of Special Housing, Form DC6-229, if any discussion of significance, action or behavior of the inmate, or any other important information is obtained which may have an influence or effect on the status of confinement. These visits shall be conducted a minimum of:

1.-9. No change.

10. The Warden SCO will visit every inmate housed in disciplinary confinement longer than sixty consecutive days, excluding close management inmates, ~~longer than sixty consecutive days~~ as frequently as necessary to ensure that the inmate's welfare is provided for and to determine if the inmate should be released.

(b) No change.

(8) Review and Release from Disciplinary Confinement.

(a)-(b) No change.

(c) If an inmate is housed for more than 60 days, the ICT shall interview the inmate and prepare a formal assessment and evaluation report after each consecutive 60 day period in disciplinary confinement. Such reports may be in a brief paragraph form on the electronic classification contact log in OBIS detailing the basis for confinement, what has transpired since the last report, the decision concerning continued disciplinary confinement, and the basis for that decision. Close management inmates in disciplinary confinement status are excluded from this formal assessment as the existing close management review process will include review of the inmate's disciplinary confinement status.

(d) The Warden SCO shall review the report prepared by the ICT and the psychologist or psychological specialist concerning the inmate's disciplinary confinement at the next on-site visit, and shall interview the inmate before determining the final disposition of the inmate's disciplinary confinement.

(e) No change.

(9)-(14) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 3-12-84, Formerly 33-3.084, Amended 7-10-90, 4-28-96, 12-7-97, 3-23-99, Formerly 33-3.0084, Amended 2-12-01, 2-15-02, 4-1-04, 1-16-06, 10-31-06, 6-25-08, 6-8-09, 7-5-10,\_\_\_\_\_.