



Operating Procedure

Effective Date November 1, 2016	Number 135.2
Amended 1/9/18, 7/1/18; 6/1/19	Operating Level Department
Supersedes Operating Procedure 135.2 (8/1/13)	
Authority COV §2.2-2900 et seq.; §18.2-64.2; §18.2-67.4; §53.1-10	
ACA/PREA Standards 4-4056, 4-4281, 4-4281-6; 4-ACRS-6A-05; 4-APPFS-3C-02 4-APPFS-3E-05; 2-CO-1C-11; §115.11, §115.67, §115.72, §115.76, §115.77, §115.211, §115.267, §115.272, §115.276, §115.277	
Office of Primary Responsibility Human Resources Director	

Subject
**RULES OF CONDUCT GOVERNING
EMPLOYEES RELATIONSHIPS WITH
OFFENDERS**

Incarcerated Offender Access Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Public Access Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Attachments Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
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Office of Primary Responsibility
Human Resources Director

I. PURPOSE

This operating procedure establishes rules of conduct that employees will observe when interacting with offenders under the direct supervision of the Virginia Department of Corrections. The procedure also provides guidance to prevent the abuse of offenders at all DOC facilities.

II. COMPLIANCE

This operating procedure applies to all units operated by the Department of Corrections (DOC). Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

III. DEFINITIONS

Abuse - The improper use or treatment of an individual that directly or indirectly affects an individual negatively; abuse may include, but is not limited to, any improper intentional act that causes physical, mental, or emotional injury to an individual. Mental or emotional injury may be inferred by the nature and circumstances of the act.

Business Relationship - Any relationship that includes the exchange of goods or services, or the preparation or maintenance of an infra-structure for a similar exchange; a business relationship may exist even in instances where there is no associated monetary value.

Fraternization - Employee association with offenders, their family members, or close friends of offenders, outside of employee job functions, that extends to unacceptable, unprofessional, and prohibited behavior; examples include non-work related visits between offenders and employees, non-work related relationships with family members or close friends of offenders, connections on social media, discussing employee personal matters (marriage, children, work, etc.) with offenders, and engaging in romantic or sexual relationships with offenders.

Hazing - Oppression, punishment or harassment by forcing or requiring performance of unnecessary work or disciplining by means of horseplay, practical jokes and tricks, often in the nature of humiliating or painful ordeals

Healing Environment - A work environment purposefully created by the way we work together and treat each other, encouraging all to use their initiative to make positive, progressive changes to improve lives. It is safe, respectful, and ethical where people are both supported and challenged to be accountable for their actions.

Offender - An inmate, probationer, parolee, post release supervisee, or other person placed under the supervision (conditional release) or investigation of the Department of Corrections.

Sexual Misconduct - Any behavior or act of a sexual nature directed toward an offender by an employee, volunteer, visitor, contractor, or agency representative; this includes but is not limited to acts or attempts to commit such acts of sexual assault, sexual abuse, sexual harassment, sexual contact, conduct of a sexual

nature or implication, obscenity, and unreasonable invasion of privacy. Sexual misconduct also includes but is not limited to conversations or correspondence that suggests a sexual relationship between an offender and any party mentioned above.

IV. PROCEDURE

A. Applicability

1. All persons who are paid by the Department of Corrections on an hourly, salaried, or contractual basis, or who are paid by another state agency for working in a position within a DOC Unit, and volunteers who provide services to offenders are expected to provide a positive role model for offenders and a safe, secure, and healing environment for employees and offenders by acting in accordance with this operating procedure.
2. The Unit Head shall ensure compliance and enforcement of this operating procedure at the unit level.

B. Professional Conduct - Employees of the DOC shall exercise professional conduct when dealing with offenders to ensure the security and integrity of the correctional process and to promote a Healing Environment within the Department. Employees are expected to model the Healing Environment in order to foster positive growth for staff and offenders and create a culture that supports re-entry and public safety.

1. Abuse of Employment Status - Employees shall not use their official status as employees of the DOC as a means to establish social interactions or business relationships not directly related to DOC business. (4-APPFS-3C-02)
2. Vigilance - Employees are expected to be alert to detect and prevent escapes from custody or supervision, or violations of departmental operating procedures. Observed incidents or suspicions of planned incidents shall be reported to the employee's supervisor or the appropriate officer in accordance with established procedures.
3. Professional Appearance - All employees should maintain a professional appearance and demeanor at all times.
4. Confidential Information - Information pertaining to the record, offense, personal history, medical or mental health information, or private affairs of offenders is for official use only. Employees shall seek to obtain such information only as needed for the performance of official DOC duties, shall not access or discuss such information except as required in the performance of official duties, and shall take necessary precautions to protect the security and confidentiality of offender records and information (see Department Operating Procedure 050.1, *Offender Records Management*, and 310.2, *Information Technology Security*)
5. Interactions:
 - a. While performing their job duties, employees must model a professional, healing, and supportive relationship when interacting with persons under DOC supervision, which involves respecting the rights of offenders as individuals, acting in a trustworthy and responsible manner, helping and supporting offenders and other staff members to the extent possible and ensuring that the employee's conduct does not harm others.
 - b. Employees must work towards the goal of improved public safety and the successful transformation and reintegration of those entrusted to the Department's care, while maintaining a suitably professional detachment to ensure that personal and professional identities are not blurred.
 - c. Employees are encouraged to interact with offenders on an individual and professional level while maintaining and reinforcing appropriate professional boundaries to promote and accomplish DOC goals.
6. Interactions with co-workers who are ex-offenders:
 - a. If the co-worker has been released from DOC custody or terminated from supervision, whichever occurs last, for more than 180 days, there are no restrictions on relationships with the individual

that would not apply to all employees.

- b. If the co-worker is known to be under DOC supervision or within 180 days following discharge from DOC custody or termination from supervision, whichever occurs last, interactions shall be limited to appropriate professional boundaries and support as outlined below. Professional relationships within appropriate boundaries may exist within this timeframe such as:
 - i. Requests for assistance (such as needing a reference)
 - ii. The offender reporting re-entry progress to the employee
 - iii. Casual, unplanned meetings with the offender, close friends of the offender, or members of the offender's family that occur in public and where appropriate boundaries are maintained
 - iv. Engaging in peer support activities such as going to an event or meeting
 - v. In all such situations, the employee must report such contact to their supervisor or unit head on the same or next business day.
 - c. If an employee does not know and reasonably should not have known that a co-worker is under DOC supervision or within 180 days following discharge from DOC custody or termination from supervision, whichever occurs last, the employee is not guilty of fraternization for relationships with the individual that would be appropriate for all employees.
7. Courtesy and Respect - At all times, employees should be respectful, polite, and courteous in their communication and interaction with offenders, as well as with citizens and other employees. Such practices are primary factors in providing a Healing Environment for effectively engaging others, resolving issues, maintaining order, control, good discipline, and redirecting behavior to a more positive result.
8. Humane Treatment - Offenders shall be treated humanely. Abuse or any form of corporal punishment or hazing is prohibited. No profane, demeaning, indecent, or insulting language, or words with racial, religious, sexual orientation, or ethnic connotations, shall be used. (4-4281)
9. Sexual Misconduct
- a. The Department of Corrections has zero tolerance for all forms of sexual abuse and sexual harassment. See Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*, for additional information on preventing, detecting, and responding to such conduct. (§115.11[a], §115.211[a])
 - b. Any behavior of a sexual nature between employees and offenders, offender's immediate family, or a close friend of the offender is prohibited. (4-4056, 4-4281-6, 4-ACRS-6A-05; 4-APPFS-3C-02; 4-APPFS-3E-05; 2-CO-1C-11) Behavior of a sexual nature includes sexual abuse, sexual assault, sexual harassment, physical conduct of a sexual nature, sexual obscenity, and conversations or correspondence of an emotional, romantic, or intimate nature.
 - i. Sexual misconduct will be treated as a Group III offense subject to disciplinary sanctions up to and including termination under Operating Procedure 135.1, *Standards of Conduct*. (§115.76[a], §115.276[a])
 - ii. Termination shall be the presumptive disciplinary sanction for employees who have engaged in sexual abuse. (§115.76[b], §115.276[b])
 - iii. Disciplinary sanctions for violations of DOC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. (§115.76[c], §115.276[c])
 - iv. All terminations for violations of DOC sexual abuse or sexual harassment policies, or resignations by staff that would have been terminated if not for their resignation, shall be reported to any relevant licensing bodies by the DOC PREA Coordinator, and to law enforcement agencies, unless the activity was clearly not criminal. (§115.76[d], §115.276[d])
 - v. Any contractor or volunteer who engages in sexual abuse of offenders shall be prohibited from contact with offenders and shall be reported to any relevant licensing bodies by the DOC PREA Coordinator, and to law enforcement agencies, unless the activity was clearly not criminal.

(§115.77[a], §115.277[a]) The DOC shall take appropriate remedial measures, and shall consider whether to prohibit further contact with offenders, in the case of any other violation of DOC sexual abuse or sexual harassment policies by a contractor or volunteer. (§115.77[b], §115.277[b])

- vi. A preponderance of the evidence will be adequate in determining whether allegations of sexual abuse or sexual harassment are substantiated. (§115.72, §115.272)
- c. Carnal knowledge without the use of force, threat, or intimidation of an offender by an employee, including a wage employee, contract employee, or volunteer in any relationship with an offender is a Class 6 felony. (COV §18.2-64.2) (4-4281-6)
- d. Sexual battery of an offender by an employee, contract employee, or volunteer in any relationship with an offender is a Class 1 misdemeanor. (COV §18.2-67.4) (4-4281-6)

C. Improprieties: Non-Professional Association

1. Fraternalization

- a. Except for preexisting relationships (see below), fraternization or non-professional relationships between employees and offenders are prohibited, including when the offender is within 180 days of the date following discharge from DOC custody or termination from supervision, whichever occurs last.
 - i. This action should normally be treated as a Group III offense under Operating Procedure 135.1, *Standards of Conduct*, unless surrounding circumstances and mitigating factors are present that warrant a reduction in the disciplinary action.
 - ii. Professional relationships with appropriate boundaries may exist within this timeframe such as:
 - (a) Calls for assistance (such as needing a reference)
 - (b) The offender reporting re-entry progress to the employee
 - (c) Incidental encounters between employees and offenders or members of the offender's families that occur in a public setting where professional boundaries are maintained
 - (d) Engage in activities such as going to an event or meeting, directly related to the successful reentry of the offender
 - (e) In all such situations, the employee must report such contact to their supervisor or unit head on the same or next business day.
 - b. Exception-Any family relationship or pre-existing non-professional relationship (established friendship, prior working relationship, neighbor, etc.) between employees and offenders, including when the offender is within 180 days following their discharge from DOC custody or termination from supervision, whichever occurs last, must be reported to the Unit Head.
 - i. In consultation with the Regional Operations Chief, Chief of Corrections Operations, or appropriate Deputy Director, a decision will be made regarding future contact between the employee and the offender, the offender's family, and/or close friends of the offender.
 - ii. The Regional Operations Chief, Chief of Corrections Operations, Deputy Director of Administration, or Superintendent for Education has final authority in these matters.
 - iii. The relationship and guidance on future contacts shall be documented in VACORIS *Case Notes*.
- 2. Improprieties - Associations between staff and offenders that may compromise security, or undermine the employee's ability to carry out their responsibilities may be treated as a Group III offense under Operating Procedure 135.1, *Standards of Conduct*.
 - 3. Special Privileges - Employees shall not extend or promise an offender special privileges or favors not available to all persons similarly supervised, except as provided for through official DOC channels.
 - 4. Visitation
 - a. Non-job related visitations between employees and offenders, or families of offenders, are only permitted upon showing a good cause with the explicit written permission of the Regional Operations Chief of the region(s) involved (e.g., approved research as part of an educational program).

- b. The Chief of Corrections Operations, Deputy Director of Administration, and the Superintendent for Education must also provide approval for employees in their units to participate in such visits.
5. Communication and Contact - As long as the offender is under the custody, care, or supervision of the DOC, any unexpected, incidental, non-work related contact with offenders or their families should be reported to the Unit Head promptly and documented in VACORIS *Case Notes*, as necessary.

D. Offender Abuse Prevention

1. Any individual staff member who physically or verbally abuses any offender or a supervisor who observes the behavior and fails to hold a staff person responsible may be subject to disciplinary action up to a Group III under Operating Procedure 135.1, *Standards of Conduct*. Unprofessional conduct, regardless of intent, that results in assault and/or battery of an offender must be reported immediately to the Organizational Unit Head or Administrative Duty Officer.
2. No one shall cause or permit any offender to perform personal services for staff or any individual. Offenders may be required to clean and provide normal sanitary functions within the facility as a function of their assigned job. Offenders will not maintain or repair any employee's personal property, unless as a part of a program or activity that is otherwise approved by the DOC.
3. Physical contact with offenders shall be conducted in a professional manner using the minimum amount of force necessary to provide appropriate apprehension, intervention, and control as needed to protect the offender, staff, and the general public, and to maintain a safe and secure environment.

E. Employee and Supervisory Reporting Responsibilities

1. Failure to comply with the reporting requirements outlined below will be considered a violation of Operating Procedure 135.1, *Employee Standards of Conduct*, and may be subject to disciplinary action up to and including termination
2. Employee Responsibilities - In addition to complying with the above procedures, employees have a continuing affirmative duty to disclose to their supervisors or other management officials any conduct that violates this procedure or behavior that is inappropriate or compromises safety of staff, offenders, or the community and any staff or offender boundary violations. (4-APPFS-3E-05)
3. Supervisory Responsibilities - Supervisors shall ensure that all reports of violation of this operating procedure are forwarded to the Organizational Unit Head for investigation and notify the PREA Analyst.
4. The Unit Head will ensure that all allegations of staff sexual misconduct are reported to the Special Investigations Unit who will review all allegations of staff sexual misconduct and investigate as appropriate.
5. All offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation by other offenders or staff. (§115.67[a., c.], §115.267[a., c.]
 - a. The Facility Unit Head shall designate appropriate staff to monitor the conduct and treatment of offenders or staff who reported or cooperated with an investigation into sexual abuse or sexual harassment.
 - i. Designated staff shall monitor for retaliation at least 90 days following the report to determine if there are changes that may suggest possible retaliation by offenders or staff.
 - ii. If the initial monitoring indicates a continuing need, designated staff shall continue monitoring beyond 90 days and notify the PREA Analyst.
 - b. Any employee or supervisor who witnesses or becomes aware of retaliation shall immediately report the incident to their supervisor, the officer in charge, or the Facility Unit Head, such incidents shall be investigated and reported to the PREA Analyst.

V. REFERENCES

Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*

Operating Procedure 135.1, *Standards of Conduct*

VI. FORM CITATIONS

None

REVIEW DATE

The office of primary responsibility shall review this operating procedure annually and re-write it no later than three years from the effective date.

The office of primary responsibility reviewed this operating procedure in November 2017 and no changes are needed at this time.

The office of primary responsibility reviewed this operating procedure in November 2018 and necessary changes are being drafted.

Signature Copy on File

10/1/16

N. H. Scott, Deputy Director of Administration

Date