

January 15, 2014

NOTICE OF PROPOSED RULE

DEPARTMENT OF CORRECTIONS

RULE NO.:	RULE TITLE:
33-602.220	Administrative Confinement
33-602.221	Protective Management
33-602.222	Disciplinary Confinement

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Rules 33-602.220, 33-602.221, and 33-602.222 to revise the definitions of Institutional Classification Team, State Classification Officer, and major rule violation; to detail how visitors are notified when inmates are placed in special confinement and to provide for documentation when the Department contacts expected visitors; to add a definition for the Offender Based Information System (OBIS); and to provide for updates to OBIS in certain circumstances.

SUMMARY: Rulemaking was initiated to revise definitions, to provide for notification of visitors regarding inmates in special confinement, to provide documentation of notification of visitors, to add a definition of OBIS, and to provide for updates to OBIS in certain circumstances.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The department has determined that this rule will not have an adverse impact on small business and is not expected to directly or indirectly increase regulatory costs more than \$200,000 within a year of taking effect. A SERC has not been prepared by the department. The department has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs, or if no SERC is required, the information expressly relied upon and described herein: upon review of the proposed changes to the rule, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in s. 120.541(2)(a), FS. Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09 FS

LAW IMPLEMENTED: 20.315, 944.09, 944.34, 945.04 FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul Vazquez, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.220 Administrative Confinement.

(1) Definitions.

(a)-(g) No change.

(h) Institutional Classification Team (ICT) – refers to the team consisting of the ~~w~~Warden or ~~a~~Assistant ~~w~~Warden, ~~c~~Classification ~~s~~Supervisor, ~~chief of security a~~ ~~correctional officer~~ chief, and other members as necessary when appointed by the warden or designated by rule. The ICT is responsible for making work, program, housing and inmate status decisions at a facility and for making other classification recommendations to the State Classification Office (SCO). At private facilities, the Department of Corrections representative is to be considered a fourth member of the ICT when reviewing all job/program assignment, transfer, and custody recommendations/decisions. If a majority decision by the ICT is not possible, the decision of the Department of Corrections representative is final.

(i) State Classification Office (SCO) – refers to the office or a office staff member at the ~~c~~Central ~~o~~Office level that who is responsible for the review of inmate classification decisions. Duties include approving, disapproving, or modifying rejecting ICT recommendations.

(j)-(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) Procedures 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. Pursuant to Rule 33-601.733, F.A.C., upon placement into administrative confinement, the warden shall ensure that inmates are provided the opportunity, at the inmates' expense, to notify at least three approved visitors of any visitation prohibitions or restrictions before the next scheduled visiting day if the situation permits the inmate to do so, or that staff makes visitor notifications by phone if the inmate is unable to make them. 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 any phone calls made on the inmate's behalf to his/her 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)-(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, ____.

33-602.221 Protective Management.

(1) Definitions.

(a)-(h) No change.

(i) Institutional Classification Team (ICT) refers to the team consisting of the warden or assistant warden,

classification supervisor, chief of security, a correctional officer chief and other members as necessary when appointed by the warden or designated by rule. The ICT is responsible for making work, program, housing and inmate status decisions at a facility and for making other classification recommendations to the State Classification Office (SCO). At private facilities, the Department of Corrections representative is to be considered a fourth member of the ICT when reviewing all job/program assignment, transfer, and custody recommendations/decisions. If a majority decision by the ICT is not possible, the decision of the Department of Corrections representative is final.

(j)-(m) No change.

(n) State Classification Office (SCO) refers to the office or a office staff member at the Central Office level that ~~who~~ is responsible for the review of inmate classification decisions. Duties include the approving, disapproving, or modifying ~~rejecting of ICT Institutional Classification Team~~ recommendations.

(o)-(p) No change.

(2)-(10) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.34, 945.04 FS. History—New 6-23-83, Amended 3-12-84, Formerly 33-3.082, Amended 6-4-90, 7-10-90, 12-4-90, 4-26-98, Formerly 33-3.0082, Amended 2-12-01, 1-19-03, 4-1-04, 6-8-09, 7-5-10, _____.

33-602.222 Disciplinary Confinement.

(1) Definitions.

(a)-(h) No change.

(i) Institutional Classification Team (ICT) refers to the team consisting of the warden or assistant warden, classification supervisor, chief of security, a correctional officer chief and other members as necessary when appointed by the warden or designated by rule. The ICT is responsible for making work, program, housing and inmate status decisions at a facility and for making other classification recommendations to the State Classification Office (SCO). At private facilities, the Department of Corrections representative is to be considered a fourth member of the ICT when reviewing all job/program assignments, transfer, and custody recommendations/decisions. If a majority decision by the ICT is not possible, the decision of the Department of Corrections representative is final.

(j)-(k) No change.

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

(m) No change.

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

(2)-(3) No change.

(4) Conditions and Privileges.

(a)-(h) No change.

(i)1. No change.

(i)2. When an inmate is denied visiting privileges or has special visiting restrictions due to placement in disciplinary confinement, ~~it is the responsibility of the inmate to inform visitors of such restrictions. Staff shall specifically point out this responsibility to the inmate at such time as the restrictions become effective. If sufficient time has elapsed so that visitors could have been informed, then the visiting restrictions shall be imposed even though visitors arrive and request visits. However, if insufficient time precluded notification of the visitors of the restrictions imposed, consideration shall be given for a special visitors' pass. Such special consideration may be for a visitation period less than the full visiting day.~~ the warden, pursuant to Rule 33-601.733, shall ensure that:

a. Inmates are provided the opportunity, at the inmates' expense, to notify at least three approved visitors of the prohibitions or restrictions before the next scheduled visiting day if the situation permits the inmate to do so, or

b. Staff makes visitor notifications by phone if the inmate is unable to make them.

c. Notification will be documented in the electronic record that the phone calls were made on the inmate's behalf to his/her visitors if time does not permit contact by mail prior to the planned visit.

(j)-(r) – No change.

(5)-(6) No change.

(7) Visits to Disciplinary Confinement.

(a)1.-9. No change.

(a)10. The 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 Classification 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)-(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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Upchurch, Assistant Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael D. Crews, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 16, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 31.2013