

1.1.C.2 Staff Supervision of Offenders

I Policy Index:



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II Policy:

All staff members of the Department of Corrections (DOC) will maintain objective and professional attitudes and actions while instructing and/or supervising offenders.

III Definitions:

Staff Member:

For the purposes of this policy, a staff member is any person employed by the DOC, full or part time, including an individual under contract assigned to the DOC, an employee of another State agency assigned to the DOC, authorized volunteers and student interns.

Offender:

For the purpose of this policy, an offender is an inmate (in the custody of the DOC institutional system), a parolee (under parole or suspended sentence supervision by South Dakota Parole Services) or a juvenile private placement or aftercare.

Sexual Harassment:

- (1) Unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature; and or
- (2) Verbal comments or gestures of a sexual nature, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Sexual Misconduct:

Includes prior acts of institutional sexual abuse, sexual abuse in the community.

Sexual Abuse:

Engaging or attempting to engage in sexual activity by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.

Excessive Use of Force:

While not subject to a precise definition, excessive force includes situations in which staff use more force than necessary to control the threat, or use force when force is not necessary. When the force used was excessive will be judged from the perspective of a hypothetical reasonable person on the scene and in light of the particular circumstances.

IV Procedures:

1. Staff Member Guidelines for Supervising Offenders:

- A. Instruct and/or supervise offenders in a consistent and fair manner.
- B. Avoid fraternization with offenders.
- C. Learn and acknowledge levels of facility/agency control and authority; e.g., policies, procedures, operational memorandums, rules and chain of command.
- D. Maintain professional distance, demeanor and objectivity.
- E. Be respectful in demeanor, tone and actions when supervising or addressing offenders.

2. Self-Disclosure by Staff Members:

- A. Staff members will exercise sound judgment when disclosing information to offenders and/or while in the presence of offenders; both in terms of work and private information.
- B. Staff members will not engage in discussions with offenders about topics involving personal or confidential information pertaining to staff members, other offenders, personal family situations, personal financial situations or personal problems.
- C. Staff will not communicate with offenders through social media sites (on or off duty) unless the communication is part of their official duties.
 - 1. The DOC does not monitor staff personal use of social media. However, the DOC may investigate and take responsive action when it becomes aware of, or suspects, staff conduct or communication on a social media site adversely impacts the DOC, violates applicable DOC policies or compromises a staff member's ability to adequately perform their duties, including supervision of offenders.

3. Personalization Between Staff Members and Offenders:

- A. Staff members will avoid over-personalization by not becoming personally involved with an offender's problems.
- B. If a staff member's duties include dealing with the personal lives of offenders; e.g., therapists, chaplains, volunteers, counselors, or case managers, an objective professional-to-offender relationship will be maintained to prevent an offender's problems from compromising the staff member's role as an authority figure.

4. Physical Contact:

- A. Any physical contact by a staff member upon an offender, other than during authorized searches and in accordance with acceptable procedures described within policy (See DOC policies 1.3.A.5 [Searches – Adults Institutions](#)) or during a use of force incident (See DOC policies 1.3.A.3 [Use of Force - Adult Institutions](#)), shall be limited to gestures of support or friendly greeting, such as a handshake.
- B. Under no circumstances, other than when conducting a hand pat search in a prescribed manner, should an offender be touched on their genital area, buttocks, or breast area by a staff member.

- C. Corporal punishment (See SDCL § 24-2-9), brutality, cruelty, abuse or neglect of an offender by a staff member; including intentionally demeaning or humiliating any offender, is prohibited.
- D. The DOC has zero tolerance for excessive use of force by staff. All allegations of excessive use of force involving a staff member shall be investigated.

5. Staff Member Communication:

- A. Staff members are expected to communicate in a professional manner.
 - 1. Written documents, reports or emails shared with or viewed by an offender should not contain profanity or derogatory, remarks or terms.
 - a. This does not apply to portions of reports documenting misbehavior when the misbehavior committed by the offender included the use of derogatory terms or profanity.
- B. Staff members will not use derogatory terms when addressing an offender. Sexual, ethnic or derogatory terms and/or profane descriptions will not be used as a means to address and/or describe an offender.
- C. Staff members will model appropriate language in their interactions with offenders. A consistent pattern of profanity in routine communication is not acceptable.

6. Sexual Misconduct:

- B. Sexual contact between a DOC staff member and an offender is expressly forbidden and is a violation of DOC policy 1.1.C.1 *Code of Ethics*.
 - 1. Any staff member who engages in sexual contact with any offender, or who has knowledge of sexual contact between a staff member and an offender and does not report it immediately to their supervisor, may be subject to disciplinary action, including termination of employment.
 - 2. Any person employed by the state, or employed within any state prison who knowingly engages in an act of sexual penetration with an offender in detention, and under the custodial, supervisory, or disciplinary authority of the person, is guilty of a class 6 felony (See SDCL § 24-1-26.1).
 - 3. The Prison Rape Elimination Act (PREA) requires the reporting of any act of a staff member engaging in sexual misconduct with an inmate or a juvenile housed in a DOC facility (See DOC policy 1.3.E.4 *Prevention of Offender Sexual Assault/Rape*).
- B. Sexual harassment and/or discrimination of any offender by a staff member is expressly forbidden.
- C. A staff member who engages in sexual harassment and/or discrimination of any offender, or who has knowledge of sexual harassment/discrimination involving a staff member and an offender and does not report it immediately to their supervisor, may be subject to disciplinary action, including termination of employment.
- D. Staff members should always keep in mind the following:
 - 1. Some offenders have been the victims of sexual abuse and may not know when and how to say “no” to others.

2. Even if an offender consents to a sexual relationship, legal/criminal action may determine that sexual abuse is taking place as offenders are detained and under the custodial, supervisory and/or disciplinary authority of the DOC/staff member.
3. Many offenders are skilled manipulators and may use a sexual relationship to gain an advantage.
4. If practical, it is always better to have at least one (1) other staff member present when dealing with offenders of the opposite sex.
5. Offenders do not have a right to complete privacy but it is a responsibility of the staff member to balance privacy interests with security and safety needs.

7. Ethnic Consideration:

- A. Staff members will demonstrate professionalism and integrity while instructing and/or supervising all offenders, regardless of the offender's ethnic background.
 1. Staff members shall recognize offenders of different ethnic backgrounds have specific cultural norms.
 2. Staff members shall recognize offenders of different ethnic backgrounds may have specific social needs; e.g., rituals, dress, expression of emotion, family involvement.
- B. Discrimination or harassment against any offender on the basis of race, color, religion, national origin, creed, gender, disability, age, or legally protected status or characteristic by a staff member is expressly forbidden.
- C. A staff member who engages in ethnic harassment and/or discrimination involving any offender, or who has knowledge of ethnic harassment and/or discrimination involving a staff member and an offender and does not report it immediately to their supervisor, may be subject to disciplinary action, including termination of employment.

8. Reporting Procedures:

- A. A staff member who observes or has knowledge of a staff member acting in a manner inconsistent with the standards of offender supervision described in this policy, and/or other departmental policies, shall immediately report the incident/information to their supervisor.
- B. Staff shall report any attempt by an offender to form a relationship beyond the professional relationship that exists between staff and offenders and shall immediately report the incident/information to their supervisor.
- C. If an instance of sexual contact, sexual harassment/discrimination, sexual abuse, ethnic harassment/discrimination, or questionable behavior occurs that involves a staff member's supervisor and an offender, staff is obligated to immediately report the incident/information to a senior staff member.

9. Staff Supervision of Inmates in a DOC Facility:

- A. Supervisors will conduct and document unannounced rounds during all shifts to identify and deter sexual abuse of inmates.
 1. Staff is prohibited from alerting other staff that these supervisory rounds are occurring, unless such announcement is related to the legitimate operations of the facility.

B. Cross Gender Supervision.

1. At the beginning of each day shift, each housing unit will announce that a staff member of the opposite gender of the inmate population may be assigned to work the housing unit.
2. When the status quo of the gender supervision of the housing unit changes from same gender to cross gender staff supervision, staff is required to verbally announce the change.
3. Cross gender supervision by non-medical staff is not allowed in areas where inmates shower, perform bodily functions or change clothing, except in situations when such viewing is incidental to routine cell checks.

C. Cross Gender Video Monitoring.

1. Video monitoring cameras focused on individual housing cells/bunks, living areas, shower areas or bathrooms should only be monitored by staff of the same gender as the inmates being viewed.
 - a. In barracks type housing, cameras focused on common areas that include inmate bunks is permissible as long as inmates are given the opportunity to change clothing or disrobe in an area not viewed by cross gender video monitoring.
2. Cross gender staff monitor viewing of an inmate in a specific housing cell on safety/suicide watch is permissible.
3. Cross gender staff monitor viewing of individual housing cells/bunks, shower areas and bathrooms by appropriately trained internal/external investigators and senior agency/facility administrators is permissible in conjunction with an investigation or incident review.

10. Acknowledgment of Review:

- A. Staff assigned to a DOC facility or unit charged with the detention, custody, supervision and/or discipline of offenders, will review this policy at least annually and sign the [Receipt and Acknowledgment](#) form referenced in DOC Policy 1.1.D.1 [Staff Training Requirements](#), acknowledging they are fully aware of, have reviewed, understand and agree to abide by this policy.

V Related Directives:

SDCL §§ [21-2-9](#), [24-1-26](#) and [24-1-26.1](#).

DOC policy 1.1.C.1 – [Code of Ethics](#)

DOC policy 1.1.D.1 – [Staff Training Requirements](#)

DOC policy 1.3.A.3 -- [Use of Force - Adult Institutions](#)

DOC policy 1.3.A.5 – [Searches – Adults Institutions](#)

DOC policy 1.3.E.4 – [Prevention of Offender Sexual Assault/Rape](#)

VI Revision Log:

March 2002: **Added** section on Communication. **Added** criminal punishment reference to Sexual Situations A.1. **Added** Acknowledgement of Review section.

December 2003: **Added** references to policies 1.3.A.5 and 1.3.A.6. **Revised** some section titles.

January 2005: **Added** exceptions for correctional officers at a juvenile facility under the section titled Consistency With Touching. **Added** a requirement to be respectful in demeanor, tone and actions under the section “Staff Member Guidelines for Supervising Offenders”.

January 2006: **Deleted** specific references on touching of offenders by officers at a juvenile facility. **Added** the reference to DOC policy 1.1.C.10. **Revised** the definition of staff member.

Clarified the change in penalties for a Class 6 felony effective 7/1/06.

December 2006: **Updated** the policy name on policies 1.3.A.5 and 1.3.A.6. **Added** a reference to policy 1.3.E.4. **Updated** penalty information on a Class 6 felony. **Noted** that disciplinary action may be applied to offenders who attempt to form a relationship with a staff member.

Clarified the policy must be reviewed annually by staff members. **Revised** the definition of offender. **Clarified** that written reports referenced in the section on Staff Member Communication also include case notes and narratives. **Clarified** the statement on “safety in numbers” in the section on Sexual Situations.

December 2007: No changes made.

November 2008: **Revised** formatting of policy in accordance with DOC policy 1.1.A.2. **Replaced** counselors with therapists and added volunteers to ss (B of Personalization Between Staff Members and Offenders). **Added** DOC policy 1.1.C.1 to ss (A of Sexual Situations). **Replaced** different with other when referencing ethnic groups in Ethnic Situations section. **Revised** other minor rewording throughout policy.

November 2009: **Revised** wording in ss (D of Staff Member Guidelines for Supervising Offenders).

Added reference to SDCL 22-6-1 in ss (A-2 of Sexual Situations and in Section V). **Added** reference to DOC policy 1.1.C.1 to section V. **Added** hyperlinks.

November 2010: Revised formatting of Section I.

January 2012: **Deleted** “Non-Public” and **Replaced** with “Public”. **Added** definition of “sexual misconduct” “sexual harassment” and “sexual abuse” **Added** “and/or while in the presence of offenders” in Section 2 A.

Added “involving personal or confidential information pertaining to” in Section 2 B. C. “The following activities or relationships between staff members and offenders are prohibited” and added items 1-9 to Section 3. **Deleted** “(See Section on Reporting Procedures)” and **Replaced** with “or a senior staff member if the situation involves a supervisor” in Section 3 C. 8 b. **Deleted** “Consistency with Physical Touching” and **Replaced** with “Physical Contact” in title of Section 4. **Deleted** “body” and **Replaced** with “hand pat” in Section 4 B. **Added** C. “Corporal punishment, brutality, cruelty, abuse or neglect of offenders; including intentionally demeaning or humiliating any offender is prohibited” to Section 4 C. **Added** new Section 6 “Sexual Misconduct” **Deleted** “persons from” and **Replaced** with “all offenders, regardless of their” in Section 7 A. **Deleted** “Ethnic harassment and/or discrimination” and **Replaced** with “Discrimination or harassment against any offender on the basis of race, color, religion, national origin, creed, gender disability, or legally protected status or characteristic.” in Section 7 B. **Deleted** “hold the offender accountable immediately” and **Replaced** with “(unsolicited contact)” and **Deleted** “Disciplinary action may also be warranted against the offender” in Section 8 B. **Added** C. to Section 8. **Added** new Section 9 “Staff Supervision of Offenders” **Renumbered** section that followed.

November 2013: **Updated** statute reference in Section 6 A. 3. **Deleted** “due to the fact the staff member has authority over the offender” and **Replaced** with “as offenders are in the detention and under the custodial, supervisory and/or disciplinary authority of the DOC/staff member” in Section 6 D. 2. **Deleted** “Each staff member “and **Replaced** with “Staff assigned to a DOC facility/Unit charged with the detention, custody, supervision and/or discipline of offenders will” in Section 10 A.

November 2014: **Added** definition of “Excessive Use of Force”. **Deleted** C. (1-9) in Section 3, (See Code of Ethics policy). **Added** D. to Section 4.

April 2015: **Added** 2 to Section 9 B. **Added** C. 1-3 to Section 9.

November 2015: **Deleted** “Repeated” from definition of Sexual Harassment. **Added** C. and C.1. to Section 2.

March 2016: **Deleted** “Any staff member assigned to a DOC juvenile corrections facility who knowingly engages in an act of sexual contact or sexual penetration with a juvenile offender whose actions (sexual contact or sexual penetration) does not otherwise constitute a felony is guilty of a Class 6 felony if the juvenile offender is an adult and a Class 4 felony if the juvenile offender is a minor (See SDCL § 22-22-7.6)” in Section 6 B. 3. **Deleted** term “offender” and **Replaced** with “inmate” in Section 9.

South Dakota Department Of Corrections
Policy
Distribution: Public

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Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

03/21/2016

Date