

## 1.1.C.2 Supervision of Offenders

### I Policy Index:



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**Distribution:** Public  
**Replaces Policy:** 1C-15  
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**Effective Date:** 11/25/2013  
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**Revision Number:** 12  
**Office of Primary Responsibility:** DOC Administration

### 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 in DOC placement, private placement, or aftercare.

#### Sexual Harassment:

- (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature; and
- (2) Repeated 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.

### 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 an environment that is as natural as possible.
- E. Maintain professional distance, demeanor and objectivity.
- F. 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 other staff members or offenders, personal family situations, personal financial situations or personal problems.

## **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 or volunteers, 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.
- C. The following activities or relationships between staff members and offenders are prohibited (also see DOC policy 1.1.C.1 [Code of Ethics](#)):
  - 1. Accepting gifts or favors or purchasing gifts or favors from any offender, from any family member of any offender or from the agent of any offender or his/her family.
  - 2. Providing gifts or favors to any offender, to any family member of any offender or to the agent of any offender or his/her family, except as authorized in the official performance of the staff member's duties.
  - 3. Developing a relationship with an offender other than necessary and required through the normal course of business. A staff member will not become emotionally, romantically, financially or sexually involved with an offender.
  - 4. Engaging in any form of business or for-profit enterprise or monetary transaction with any offender.
  - 5. Ordering or purchasing parts, supplies or materials directly from any offender which directly benefits the offender.
  - 6. Writing recommendations for any offender to any court, board or public agency, other than as authorized in the normal performance of the staff member's duties (See SDCL § [24-1-26](#)).
    - a. This does not preclude DOC employees from fully cooperating with the Parole Board (See SDCL § [24-15A-12](#)).

7. Providing legal advice to, or receiving legal advice from, offenders and/or their family members.
8. Acting as a sponsor for an offender on parole or allowing an offender on supervised release to reside in his/her home unless first approved by the Warden, Superintendent, Executive Director of Pardons and Paroles or the Secretary of Corrections.
  - a. Normally, such exceptions will be limited to staff who are an immediate family member to the offender.
  - b. Any DOC staff person who becomes aware of an offender residing with a staff member is obligated to check on the appropriateness of the situation and/or report the situation to their supervisor, or a senior staff member if the situation involves a supervisor.
9. Delivering or having in your possession with intent to deliver to an inmate any article or thing considered to be contraband (See SDCL § [24-2-22](#)) is a Class 6 felony, punishable by a maximum sentence of two (2) years imprisonment in the state penitentiary or a fine of four thousand dollars (\$4000), or both.

#### **4. Physical Contact:**

- A. Any physical contact by a staff member, other than authorized body searches (See DOC policies [1.3.A.5 Searches – Adults Institutions](#) and [1.3.A.6 Searches – Juvenile Institutions](#)) or while applying use of force (See DOC policies [1.3.A.3 Use of Force - Adult Institutions](#) and [1.3.A.4 Use of Force - Juvenile Institutions](#)) will be limited to gestures of support or a friendly greeting, such as a handshake.
- B. Under no circumstances, other than a hand pat search, should an offender be touched on their genital area, buttocks, or breast areas by a staff member.
- C. Corporal punishment (See SDCL § [24-2-9](#)), brutality, cruelty, abuse or neglect of an offender; including intentionally demeaning or humiliating any offender by a staff member is prohibited.

#### **5. Staff Member Communication:**

- A. Staff members are expected to communicate in a professional manner.
  1. Written documents, reports, emails, etc. should not contain profanity or derogatory, remarks, terms to describe others.
    - 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:**

- A. 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 staff member who knowingly engages in an act of sexual penetration with an offender is guilty of a class 6 felony (See SDCL § 24-1-26.1).
  3. 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).
  4. 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 about offenders:
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 in the detention 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 needs.

## 7. Ethnic Consideration:

- A. Staff members will demonstrate professionalism and integrity while instructing and/or supervising all offenders, regardless of their 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 groups 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 an instance of sexual contact, sexual harassment/discrimination, sexual abuse, ethnic harassment/discrimination, or questionable behavior involving a staff member or an offender is obligated to report the information immediately to his/her 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 his/her 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 information to a senior staff member.
1. The staff member who receives the report/information shall immediately report the matter to his/her supervisor (or senior staff member if the report involves his/her supervisor).

## 9. Staff Supervision of Offenders:

- A. Supervisors will conduct and document unannounced rounds during all shifts to identify and deter sexual abuse.
1. Staff are 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. It will be announced at the beginning of each shift in a housing unit when staff of an opposite gender of the offender population within the unit is assigned to that particular shift.
  2. Cross gender supervision by non-medical staff is not allowed in areas where offenders shower, perform bodily functions or change clothing, except in situations when such viewing is incidental to routine cell checks.

## 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 will 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 and understand and agree to abide by this policy.

## V Related Directives:

SDCL §§ [22-6-1](#), [22-22-7.6](#), [24-1-26](#), [24-1-26.1](#), [24-2-9](#), [24-2-22](#) and [24-15A-12](#)

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.4 -- [Use of Force - Juvenile Institutions](#)

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

DOC policy 1.3.A.6 – [Searches – Juvenile 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.

South Dakota Department Of Corrections  
Policy  
Distribution: Public

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*Denny Kaemingk* (Original Signature on file)

Denny Kaemingk, Secretary of Corrections

*11/21/2013*

Date