

State of Vermont, Agency of Human Services Department of Corrections	Title Policy Development, Implementation, and Management	Page 1 of 7
Chapter: General Administration	# 02	<i>Supersedes #02 dated 05/27/2008</i>
Attachments, Forms & Companion Documents: 1. All attachments, forms, and companion documents are available on the Departments website.		
Local Procedure(s) Required: No Applicability: All staff (including volunteers and contractors) Security Level: "B" - Anyone may have access to this document.		
Approved:		
SIGNED	9/9/15	10/1/15
<hr/> Andrew Pallito, Commissioner	<hr/> Date Signed	<hr/> Date Effective

PURPOSE

This directive outlines the Vermont Department of Correction's (DOC) policy towards the development, implementation, and management of the DOC's Administrative Procedures Act (APA) rules, administrative directives, memos, and guidance materials. The development, implementation, and management of these documents are used to provide direction to all DOC sites, including central, field, and facility.

POLICY

DOC shall have a consistent method for the development, implementation, and management of its rules, directives, memos, and guidance materials. Policies, directives, and guidance documents developed shall clearly identify the DOC's philosophy and general principles surrounding the subject, as well as identify the expectations surrounding implementation and practice for staff. All documentation shall be written in a clear and concise manner which is easy to understand both by DOC staff members and the public at large. DOC's rules, directives, memos, and guidance materials are compliant with federal law, Vermont law, Vermont policy, Agency of Human Service's (AHS) policy, and professional standards.

AUTHORITY

28 V.S.A § 102(b)(1); 102(c)(1). 1 V.S.A. § 317(c)(25). 3 V.S.A. §§ 831, 832(b)(4), 845(a), and 3052.

REFERENCE

3 V.S.A. § 3052, 3 V.S.A. §§ 831 (a), 832(b)(4). American Correctional Association,

Standards for Administration of Correctional Agencies, 2nd edition, 1993: Standards 2-CO-1A-01, 2-CO-1A-04, 2-CO-1A-05, 2-CO-1A-06, 2-CO-1A-07, 2-CO-1A-16, 2-CO-1A-17. American Standards for Adult Correctional Institutions, 4th Edition, 2003: Standards 4-4012, 4-4113, and 4-4014; American Correctional Association Standards for Adult Probation & Parole Field Services, 3rd Edition, 1998.

PROCEDURAL GUIDELINES

1. Administrative Directive Development and/or Revision

The Policy Development Unit will oversee a standard, consistent process for developing new, or revising current DOC administrative directives, interim memorandum, and Administrative Procedures Act (APA) rules. The process will be open and inclusive, communicated to staff, stakeholders, and other interested parties (including offenders, when appropriate), and the general public through the DOC public website, and in most cases, will invite comment.

- a. All DOC administrative directives, interim memoranda, and Administrative Procedures Act (APA) rules require signature by the Commissioner, or designee, before becoming effective. Administrative Procedures Act (APA) rules require approval by the Secretary of the Agency of Human Services, or designee, before being promulgated.
- b. DOC staff are encouraged to suggest the need for a new, or revised of an administrative directive, interim memorandum, and an Administrative Procedures Act (APA) rule.
- c. Following the identification of a document(s) for development or revision, the Policy Development Unit will:
 - i. Identify the Director responsible for the Directive and inform him/her of the need to start the policy development process for the new/revised document.
 - ii. Collaborate and work with the Director, or designee, in the timely development or revision of the document per the policy development process.

2. Security Designation

All directives and interim memorandum will be given a security designation. Directives and interim memorandum will be given a designation of Level A or Level B. Determinations on whether a directive or interim memorandum will be given a designation of Level A or Level B shall be made by the Commissioner, or designee.

Level A designations will be given when they contain security procedures and similar information, the disclosure of which would threaten the safety of individuals or the security of public property. This includes, but is not limited to, situations that may result in (1) the placement of staff, the public, or offenders at a risk or disadvantage in terms of safety; (2) an

increase of contraband in correctional facilities; (3) an increased possibility of an escape

- a. The following applies to directives and interim memorandums designated as Level A:
 - i. Has restricted access and is not accessible to the public or offenders unless redacted and approved for release by the Commissioner, or designee.
 - ii. The document(s) will not be posted for staff feedback and public comment prior to being finalized.
 - iii. The document(s) in their entirety shall be posted in a secure electronic folder and will not be posted on the website due to confidentiality and/or security reasons.
 - iv. Redacted documents shall be posted on the website.
- b. The following applies to directives and interim memorandums designated as Level B:
 - i. A “B” level directive or procedure is accessible to anyone.
 - ii. All finalized directives which are designated as Level “B” shall be posted on the DOC’s website.

3. Rules: Administrative Rulemaking and Emergency Rulemaking

The DOC shall promulgate administrative rules when required by statute or when circumstances. The DOC shall promulgate administrative rules pursuant to the process prescribed by Vermont statute and administrative law.¹ The DOC shall follow the rulemaking procedures and processes identified and prescribed by the Secretary of State’s office.²

4. Interim Memorandum

Interim memoranda revise current documents or promulgate new policy which have an immediate need to be in effect. In order for an interim memorandum to become effective at least one of the following criteria must exist and/or be met: (1) New legislation that necessitates immediate action; (2) Results of a lawsuit that has been settled with the DOC; (3) To respond to a critical situation in DOC operations or a critical need discovered during an audit; and (4) When deemed necessary by the Commissioner.

Interim memorandum will be put into effect immediately and have the same authority as any directive promulgated through the normal PDU process.

Interim memorandum will be associated with a current directive, or identify the need for a new directive. When a directive is revised or created, any associated interim memoranda will be reviewed to determine if their content would best fit within the directive, and would be superseded upon the directive becoming effective.

¹ 3 V.S.A. Chapter 25; 3 V.S.A. § 847(e); Vermont Secretary of State’s Administrative Rule on Rulemaking dated October 15, 2010.

² The procedure and processes used to promulgate administrative rules, as identified by the Vermont Secretary of States, is available at <https://www.sec.state.vt.us/administrative-rules.aspx>

Due to the emergent nature of interim memorandum, their drafting does not include following the formal PDU process. The following steps must be met:

- a. The relevant DOC Director(s) identifies the need for an interim memorandum to PDU.
- b. PDU and the relevant DOC Director(s) create a draft of the interim memorandum.
- c. The draft created by PDU and the DOC Director is reviewed and approved for signature by the DOC's Commissioner, or designee.

The interim memorandum is signed by the Commissioner, distributed to staff, and posted on the website and/or secure electronic folder.

5. Policy Development Process for Directives

The PDU shall develop a standardized process for developing and finalizing directives. This PDU process will be a tool for the DOC in its policy development. It is not a rigid process, but rather a dynamic process which ensures necessary development phases are reached in a timely manner.

At minimum the PDU process will ensure that the following are met:

- a. Directives outline the DOC's philosophy, guiding principles, and general approach for the subject matter they cover.
- b. Guidance documents are created when necessary to assist in the implementation, understanding, and usability of directives.
- c. Establish timelines for the development and promulgation of directives.
- d. Forms, attachments, and companion documents will be made electronic when possible, and, if appropriate, utilize existing DOC technology.
- e. Directive drafts are reviewed by participating DOC staff members.
- f. Directives are posted for a public comment and staff comment period. Directives are reviewed by legal counsel.
- g. Directives are reviewed by the senior DOC staff members prior to signature.
- h. Directives are signed by the Commissioner, or designee, before becoming effective.
- i. Directives are posted on the DOC's secure electronic folder and/or website.

6. Public and Staff Comment

All DOC administrative directives identified as security Level B documents are required to be

posted for a two week comment period. This comment period will be open to everyone, including, but not limited to, the public, DOC staff, and offenders. DOC staff shall be notified of a comment period electronically. In addition, all directives will be available on the DOC website for the duration of the comment period.

All comments received on an administrative directive, or administrative rule will be reviewed in order to determine whether or not the comment should be incorporated into the directive or rule.

Level A directives will seek feedback from applicable internal DOC staff who are familiar with the content, security, and operational concerns. All DOC administrative directives that have been identified as Level A directives will not be posted for a two week public and DOC staff comment period due to the security and operations concerns.

7. Comment Review and Feedback

All comments received on an administrative directive, or administrative rule will be compiled and reviewed in order to determine whether or not the comment should be incorporated into the directive or rule. Once a determination is made with regard to the comment, a response will be entered for the record. All comments and corresponding responses will be available on the DOC website for review no later than thirty days after the effective date of the directive or rule.

8. Posting and Disseminating to Staff

All Level B administrative directives, redacted Level A administrative directives, interim memorandums, or rules shall be made public and accessible on the DOC's website.

- a. Electronically notify all staff of the new directive, interim memorandum, or rule;
- b. Electronically notify all District Managers (DM), and Superintendents of the new directive, interim memorandum, or rule;
- c. Electronically distribute an acknowledgement form to DMs and Superintendents.
- d. Send an acknowledgement form and printed copy of the directive, interim memorandum, or rule to each facility law library.

District Managers and Superintendents are responsible for ensuring that their corresponding acknowledgement forms are returned electronically to PDU within two weeks of receipt. District Managers and Superintendents are also responsible for ensuring that the directive is printed and placed in the local binder.

Law Librarians are responsible for ensuring that their corresponding acknowledgement forms are returned to PDU within one month of receipt.

Level A directives will be posted in their entirety in a secure electronic folder and will be available to DOC staff members that are identified as requiring access. The secure electronic folder will be jointly maintained by PDU and the Director of Facilities.

Level A directives in their entirety will be made available only to staff whose jobs require that they have access. Requests for access to full versions of Level A directives shall be made to the appropriate Director, typically, the Director of Facilities, or the Director of Field Services.

9. Guidance Documents and Forms

Guidance documents and forms are implementation tools that support a directive. Neither guidance documents nor forms need to go through a formal policy making process; rather, they can be updated as needed to account for changes in practice. Any updates to guidance document and/or forms must be submitted to PDU for review and finalization. Once approved, PDU shall be responsible for their dissemination to applicable DOC staff and the public if appropriate.

Guidance documents are documents which provide the detailed instruction needed to implement a directive. They are designed specifically towards a directive or group of directives and provide careful instructions to DOC staff. DOC staff shall utilize the procedures, practices, and principles of guidance documents in their daily work tasks.

Guidance documents may take many different approaches depending on the directive and its implementation goals. Examples of components of guidance documents are identified below:

- a. Any necessary detailed and/or step-by-step procedures which DOC staff must follow;
- b. Any necessary background information helpful for staff to understand the goals and purposes of the directive;
- c. Any necessary or helpful “how-to” guidebooks for staff;
- d. Any necessary or helpful implementation manuals for large topic areas governing DOC practice;
- e. Any other documents which would aid in the assistance and/or interpretation of the DOC’s administrative directives.

Guidance documents shall be available on the intranet unless the Commissioner, or designee, determines that they raise a security and/or operational concern which require them to be confidential. As guidance documents are technical guides which aim to assist staff in their day to day duties they are subject to change, and are considered work product, not policy documents.

In addition to guidance documents, the DOC may also have forms which are necessary to implement the directive. Forms in general should utilize available DOC technology. Any forms not maintained in an internal DOC database, or drive, shall be available on the internal DOC website.

10. Review of Directives, Interim Memorandums, Guidance Documents, and Administrative Rules

All DOC administrative directives, interim memorandums, guidance documents, and rules shall be assigned a DOC director who shall be responsible for their content. The responsible director will be the DOC director whose field most closely lines up with the document's policies and purpose. Document responsible directors shall ensure that documents are reviewed every three years. PDU shall send out an annual list of documents which require review to the responsible director. Responsible directors shall notify PDU when a review is complete.

Directive and rule reviews are required, but not limited to identify any of the following factors. If a factor results in a conflict or needed change the directive must be placed into the PDU process for a revision:

- a. Statutory changes (includes both Vermont and federal);
- b. Vermont, Agency of Human Services, and DOC of Corrections policy changes;
- c. Any interim memorandums³;
- d. Other factors which place the directive in conflict with present practice, law, or policy.

³ If a directive has an interim memorandum which falls within its scope, then it must be incorporated into the directive, and the corresponding interim memorandum shall be superseded by the updated directive.