

CHAPTER 95. COUNTY CORRECTIONAL INSTITUTIONS

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Authority

The provisions of this Chapter 95 issued under section 916 of The Administrative Code of 1929 (71 P. S. § 306) (Repealed), unless otherwise noted.

Source

The provisions of this Chapter 95 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1655, unless otherwise noted.

Notes of Decisions

Exhaustion of Remedies

In the event that a prisoner is aggrieved by prison conditions or the actions of another inmate he must exhaust the administrative remedies available in 37 Pa. Code Ch. 95 before a writ of habeas corpus seeking discharge or transfer to another institution will be entertained. *Commonwealth v. Maute*, 397 A.2d 826 (Pa. Super. 1979).

Subchapter A. [Reserved]

Source

The provisions of this Subchapter A reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (41011) to (41012), (10871) to (10877), (5244) to (5256), (52572) to (52575), (10880) to (10881), (41013) to (41016), (10885) to (10892), (41019) to (41026), (82046) to (82049), (70889) to (70896), (32691) to (32692), (49254) to (49257), (41037) to (41040) and (32693) to (32695).

**Subchapter B. ADMINISTRATIVE STANDARDS,
REGULATIONS AND FACILITIES**

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95.181—95.187. [Reserved].
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95.201—95.204. [Reserved].
95.211—95.214. [Reserved].

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- 95.244. [Reserved].
- 95.245. Incoming publications.
- 95.246. Investigations; deaths and sexual assaults/allegations.
- 95.247. Notification.
- 95.248. Sanitation, maintenance and safety.
- 95.301. [Reserved].
- 95.302. [Reserved].
- 95.303. [Reserved].

§§ 95.141—95.145. [Reserved].**Source**

The provisions of these §§ 95.141—95.145 amended December 1, 1972, effective December 2, 1972, 2 Pa.B. 2263; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (16854) and (10949).

§ 95.151. [Reserved].**Source**

The provisions of this § 95.151 reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial page (10949).

§§ 95.161—95.173. [Reserved].**Source**

The provisions of these §§ 95.161—95.173 reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (10949) to (10956).

§§ 95.181—95.187. [Reserved].**Source**

The provisions of these §§ 95.181—95.187 reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534. Immediately preceding text appears at serial pages (10957) to (10960).

§§ 95.191—95.198. [Reserved].**Source**

The provisions of these §§ 95.191—95.198 reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534, unless otherwise noted. Immediately preceding text appears at serial pages (10960) to (10964).

§§ 95.201—95.204. [Reserved].**Source**

The provisions of these §§ 95.201—95.204 reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534, unless otherwise noted. Immediately preceding text appears at serial pages (10964) to (10965).

§§ 95.211—95.214. [Reserved].**Source**

The provisions of these §§ 95.211—95.214 reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534, unless otherwise noted. Immediately preceding text appears at serial pages (10965) to (10966), and (41041) to (41042).

COUNTY JAILS**§ 95.220. Purpose.**

This subchapter is designed to encourage county prisons to develop and utilize local policies and procedures that are in keeping with existing State law and recognized professional standards for all sections addressed in this chapter.

Authority

The provisions of this § 95.220 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 95.220 adopted February 18, 2000, effective February 19, 2000, 30 Pa.B. 866.

§ 95.220a. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Alcohol and other drugs treatment—A treatment service designed to address the impact and ramifications of use or abuse of alcohol and other drugs so as to prevent illegal or destructive conduct and avoid addiction.

Alternative menu—Meal plans that are prepared and served as an alternative to the regular meal plan.

Bed capacity—The number of beds that a prison may utilize consistent with the American Correctional Association's "Standards for Adult Local Detention Facilities" on unencumbered space and that are only utilized in areas approved for residential occupancy by the Department of Labor and Industry or local code authority.

Classification—A process for determining an inmate's needs and requirements and for assigning the inmate to appropriate housing units and programs according to the inmate's needs and existing resources.

Code of conduct and ethics—A set of rules describing acceptable standards of conduct for all prison staff.

Community resources—Human service agencies, service clubs, citizen interest groups, self-help groups and individual citizen volunteers that offer services, facilities or other functions that assist inmates.

Compensation—Incentives such as monetary compensation, extra privileges, good time credits, credit toward applicable fines and costs or other items of value that are given for inmate participation in a work program.

Contact visitation—A program inside or outside the prison that permits inmates to visit with designated persons without obstacles or barriers to physical contact.

Contraband—An item possessed by an individual or found within the prison that is prohibited by law or expressly prohibited by those legally charged with the administration and operation of the prison.

Counseling—A treatment service using planned interpersonal relationships to promote social adjustment and provide opportunities to express feelings verbally with the goal of resolving the individual's problems.

Department—The Department of Corrections of the Commonwealth.

Education—A treatment service using formal academic education or a vocational training activity designed to improve knowledge or employment capability, or both.

Financial audit—An examination of prison records or accounts to check their accuracy conducted by persons not directly involved in the creation and maintenance of these records or accounts.

First aid—Care for a condition that requires immediate assistance from an individual trained in first aid care and the use of the prison's first aid kits.

Force, use of—Physical force used in instances of justifiable self-defense, protection of others, protection of property, prevention of escape or to effect compliance with the rules and regulations of the facility when other methods of control are ineffective or insufficient.

Force option—Actions beginning with the least amount of force necessary and progressing through the degrees of nondeadly and deadly force, as necessary.

Governing county prison authority—The individual or board, established by law, having administrative oversight and policy-setting responsibility for the county prison.

Grievance—A formal written complaint by an inmate related to a problem encountered during the course of his confinement.

Grievance process—The procedure established to review and respond to inmate grievances.

Health care professional—A medical doctor, doctor of osteopathy, physician's assistant, registered nurse or licensed practical nurse licensed by the appropriate licensing board of the Department of State, Bureau of Professional and Occupational Affairs.

Health care provider—An employee or contractor of the prison who is responsible for ensuring that adequate health care is provided to inmates.

Health care screening—A process developed by the prison's health care provider to assess inmates upon admission as set forth in written local policy.

Health care training—Training required by the county prison's health care provider as part of the prison's health care delivery system as set forth in written local policy.

Inmate—An individual who is legally confined in a county prison.

Intake interview—A process developed by the prison's treatment services provider to assess inmates upon admission as set forth in written local policy.

Life safety code—A manual published and updated by the National Fire Protection Association specifying minimum standards for fire safety necessary in the public interest.

Noncontact visitation—A program that restricts inmates from having physical contact with visitors by the use of physical barriers such as screens or glass, or both.

Preventive maintenance—A system designed to enhance the longevity and usefulness of buildings and equipment in accordance with a planned schedule.

Prison—A place, institution, building (or part thereof), set of buildings or area (whether or not enclosing a building or set of buildings) that is used for the lawful custody of individuals.

Prison administrator—The official who has the day-to-day responsibility for managing and operating the county prison.

Prison inspection—An onsite visit of a county prison by one or more Department inspectors to determine whether the county prison is in compliance with the minimum requirements of this chapter.

Procedures—The detailed and sequential actions that must be executed to ensure that a policy is implemented.

Restraints—Any device authorized by written local policy that is used to prevent escapes, prevent an inmate from injuring himself or other persons or prevent property damage.

Secretary—The Secretary of the Department.

Security devices—

(i) Locks, gates, doors, bars, fences, screens, ceilings, floors, walls and barriers used to confine and control inmates.

(ii) The term also includes electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies and other equipment used to maintain prison security.

Security perimeter—The outer portions of a prison that provide for secure confinement of prison inmates.

Segregation—The separation of an inmate from the general population for disciplinary or administrative reasons.

Social services—A treatment service designed to promote the welfare of the community and the inmate, as through aid for physically and mentally handicapped, health maintenance, family development and employment opportunities.

Training—An organized, planned and evaluated activity designed to achieve specific learning objectives and enhance the job performance of personnel.

Training plan—A set of long-range or short-range training activities that equip staff with the knowledge, skills and attitudes they need to accomplish the goals of the organization.

Treatment professional—An individual who possesses a bachelor's degree and advanced training in the social or behavioral sciences.

Treatment services—Alcohol and other drugs treatment, counseling, education or social services provided to an inmate during his confinement in the county prison.

Treatment services provider—An employee or contractor of the county prison who is responsible for providing treatment services to inmates.

Treatment training—Training required by the county prison's treatment services provider as part of the prison's treatment delivery system as set forth in local written policy.

Unclothed search—An examination of an inmate's unclothed body for weapons, contraband and physical abnormalities.

Vulnerability analysis—A systematic and measurable performance-based evaluation of a prison that includes a prison analysis, planning, prison characterization, threat definition, identification of undesirable events, performance-

testing physical protection systems, generation of adversary sequence diagrams, scenario development, timeline development and determination of risk for worst-case scenarios.

Work release—An arrangement sanctioned by law that enables an inmate to be released into the community to maintain approved employment or other approved activity, or both.

Written local policy—Local policy that clearly explains practices and procedures to be followed, requires compliance therewith, and provides for enforcement thereof. The Department will review the policies when inspecting county prisons.

Authority

The provisions of this § 95.220a issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); amended under section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.220a adopted February 18, 2000, effective February 19, 2000, 30 Pa.B. 866; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial page (263828).

§ 95.220b. Scope.

Each section sets forth minimum requirements, which are mandatory.

(1) Every county prison shall be subject to an annual prison inspection, except as described in paragraph (4), to determine if the prison is in compliance with the minimum requirements established by this chapter. An immediate prison inspection may be ordered by the Secretary following an emergency situation at a county prison, including a riot or disturbance, an escape from secure detention, a fatality following a serious assault or an assault by an inmate using a deadly weapon resulting in serious injury. An immediate prison inspection ordered under these circumstances shall be conducted to determine if the county prison is in compliance with the minimum requirements.

(2) The minimum requirements listed in this paragraph are deemed to be essential to the safety and security of the county prison, prison staff, inmates and the public:

- (i) Section 95.221(1)—(3) and (8) (relating to personnel).
- (ii) Section 95.222(2) (relating to admission and release).
- (iii) Section 95.224(1), (3)—(5) (relating to rules and procedures).
- (iv) Section 95.225(1) and (2) (relating to classification).
- (v) Section 95.226(1)—(4) (relating to housing).
- (vi) Section 95.230(1)—(5) (relating to food services).
- (vii) Section 95.232(1)—(4) and (8)—(12) (relating to medical health services).

(viii) Section 95.240(1) and (9) (relating to inmate disciplinary procedures).

(ix) Section 95.241 regarding security.

(x) Section 95.243(4), (5) and (7) (relating to treatment services).

(xi) Section 95.248(2), (4), (5) and (7)—(9) (relating to sanitation and safety).

(3) Within 20 days of completing any prison inspection under paragraph (1), the Department's inspector will issue the preliminary findings of the inspection to the county prison administrator and the governing county prison authority. The governing county prison authority or designee may submit a written response to those preliminary findings to the Deputy Secretary for Administration or designee. Any written response shall be submitted within 30 days of receipt of the preliminary findings. The county prison administrator may include documentation in support of the written response.

(4) The Deputy Secretary for Administration will issue a final inspection report within 20 days of receipt of the written response from the county prison administrator or within 30 days of issuance of the written preliminary findings if no written response thereto is submitted. The final inspection report will state findings on whether the county prison is in compliance with each of the minimum requirements. If the final inspection report finds that a minimum requirement has not been met, the report will also include reference to whether the county prison administrator disputed the preliminary finding of noncompliance.

(5) If the final inspection report concludes that the county prison is in full compliance with all of the minimum requirements of this subchapter, the subsequent annual prison inspection will be waived and the county prison will be inspected on a biannual basis.

(6) If a final inspection report finds that the county prison is in violation of any of the minimum requirements not set forth in paragraph (2), a notice of deficiency will be issued to the county prison administrator and the governing county prison authority along with the final inspection report.

(7) If a final inspection report finds that the county prison is in violation of one or more of the essential minimum requirements in paragraph (2), a citation of noncompliance will be issued to the county prison administrator and the governing county prison authority along with the final inspection report.

(i) If a final inspection report finds that the county prison remains in violation of any of the same essential minimum requirements for a second consecutive prison inspection, the county prison administrator and the governing county prison authority will be issued a second citation of noncompliance.

(ii) If a final inspection finds that the county prison remains in violation of any of the same essential minimum requirements for a third consecutive prison inspection, the county prison administrator and the governing county prison authority will be issued a third citation of noncompliance.

(8) The Secretary may authorize the conducting of a vulnerability analysis of a county prison when a final inspection report finds one or more violations of the essential minimum requirements in paragraph (2) and the report concludes that those violations may immediately impact the safety and security of the county prison, prison staff, inmates or the public. The Department will be responsible for the costs of a vulnerability analysis authorized by the Secretary.

(9) Within 15 days of completing a vulnerability analysis, a vulnerability analysis report will be issued to the governing county prison authority and the county prison administrator. The report will present an analysis of the overall operations of the prison and an analysis of potential threats to the safety and security of the county prison, prison staff, inmates and the public.

(10) A governing county prison authority may at any time request the Department to conduct a vulnerability analysis to assist in evaluating the operations of the county prison. The county prison shall be responsible for the costs of a vulnerability analysis conducted at the request of the governing county prison authority.

(11) The Secretary may order a hearing to determine whether a county prison should be classified as ineligible to receive prisoners sentenced to a maximum term of 6 months or more but less than 5 years under the following conditions:

(i) If a vulnerability analysis report finds one or more violations of the essential minimum requirements in paragraph (2) and concludes that those violations may immediately threaten the safety and security of the county prison, prison staff, inmates or public safety.

(ii) If the county prison has been issued a third citation of noncompliance in accordance with paragraph (7)(ii).

(12) A hearing ordered under paragraph (11) will be scheduled promptly, but in no event sooner than 20 days after receipt of the hearing notice. The proceedings will be conducted in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). The hearing will be held to determine whether the conditions at the county prison violating the essential minimum requirements constitute a significant and immediate threat to the safety and security of the county prison, prison staff, inmates or the public. The county prison shall be permitted to present evidence disputing that any significant and immediate threat exists, including evidence that measures have been taken to eliminate or minimize the threat to safety and security.

(13) The hearing will result in one of the following:

(i) Upon finding that conditions at the county prison violate the essential minimum requirements and that those violations constitute a significant and immediate threat to the safety and security of the county prison, prison staff, inmates or the public, an order will be issued classifying the county prison as ineligible to receive any additional prisoners sentenced to a maximum term of 6 months or more but less than 5 years until further order of

the Department. If such an order is issued, the county prison remains responsible for arranging incarceration at another correctional facility for those inmates committed by the county's court of common pleas to a sentence of greater than 6 months but less than 5 years to a county prison under 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement).

(ii) Upon finding that conditions at the county prison violate the essential minimum requirements, but that those violations do not currently constitute a significant and immediate threat to the safety and security of the county prison, prison staff, inmates or the public, an order will be issued stating that the citation of noncompliance remains in effect and that the county prison is subject to a follow-up prison inspection in a time frame deemed appropriate to determine if the county prison has corrected the instances of noncompliance with the essential minimum requirements. If the subsequent final inspection report finds the county prison to be in violation of some or all of the essential minimum requirements for which the hearing was conducted, the Secretary may order another hearing in accordance with paragraph (10).

(iii) Upon finding that the county prison is now in compliance with the minimum requirements, an order will be issued rescinding the citation of noncompliance. The county prison shall then be subject to an annual prison inspection consistent with paragraph (1).

Authority

The provisions of this § 95.220b issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); amended under section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.220b adopted February 18, 2000, effective February 19, 2000, 30 Pa.B. 866; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial page (263828).

§ 95.221. Personnel.

The following minimum requirements apply to personnel at county prisons:

(1) Before being assigned duties, all corrections personnel shall be given training as to the contents/application of this chapter and in their general and specific responsibilities, including the use of force, prohibition on the seeking and dispensing of favors to and from the inmate population and instruction in the prison's code of conduct and ethics. A record of this training shall be documented in each employe's personnel file.

(2) Full time corrections personnel shall receive basic training from a training program approved by the Department within 12 months of assuming their duties.

(3) Part-time corrections personnel shall be provided training required under paragraph (1). Part-time corrections personnel who have not completed an approved training program under paragraph (2) may not be permitted to work without close supervisory direction by a person who has received the training.

(4) Written local policy must provide for training and staff development as described in paragraphs (1)—(3).

(5) An annual training plan shall be prepared that identifies the subjects and number of hours required for preassignment, basic and staff development training. Training may occur onsite, at an academy or training center, during professional meetings, through supervised on-the-job training or computer-based training. The training plan shall be reviewed annually by the prison administrator or designee.

(6) Written local policy must provide for a personnel policy manual that is available for employee reference. This manual must include, but not be limited to:

- (i) Organizational chart.
- (ii) Recruitment and promotion.
- (iii) Job specifications and qualifications.
- (iv) Code of conduct and ethics.
- (v) Sexual harassment/sexual misconduct provisions.
- (vi) Employee evaluation.
- (vii) Staff disciplinary process.
- (viii) Grievance and appeals process.

(7) The prison administrator or a designee shall conduct a documented review of the prison personnel policy manual annually and revise as needed.

(8) Written local policy must mandate a drug-free workplace for all prison staff including the following:

- (i) Prohibition on the use of illegal drugs.
- (ii) Prohibition of possession of any illegal drug except in the performance of job duties.
- (iii) Procedures to ensure compliance.
- (iv) Availability of treatment or counseling, or both, for drug abuse.
- (v) Penalties for violation of the policy.

(9) Written local policy must specifically and strictly prohibit sexual misconduct and sexual harassment by prison staff. Written local policy must inform prison staff that they may be subject to disciplinary action or criminal charges, or both, if found to have engaged in that conduct.

Authority

The provisions of this § 95.221 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); amended under section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.221 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial page (263829).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.222. Admission and release.

The following are the minimum requirements applicable to admissions and releases:

- (1) *Admission.* Written local policy must provide for the following:
 - (i) With all admissions to the prison, commitment under proper legal authority and completeness of paperwork shall be verified.
 - (ii) An inmate may not be admitted into the prison when it is determined that the inmate is in need of medical treatment that cannot be provided by the prison. In those cases, a written verification of treatment from a medical doctor shall be provided by the transporting authority prior to admission.
 - (iii) Admission procedures relating to property disposition, notification and medical assessments and personal hygiene must be specified in written local policy.
 - (iv) The type of contraband search to be performed, including a restriction as to the use of an unclothed search on an arrestee.
 - (v) As part of the admission process, basic personal information shall be obtained for identification and classification purposes. This basic information must include:
 - (A) Name of the inmate.
 - (B) Date of birth.
 - (C) Race.
 - (D) Gender.
 - (E) Social Security number.
 - (F) State identification number (SID).
 - (G) Country of birth.
 - (H) Citizenship.
 - (I) Any aliases.
 - (J) Previous address of the inmate.
 - (K) Physical description of the inmate, including height, weight, hair, eye color and any scars or tattoos.
 - (L) Occupation of the inmate.
 - (M) Education.
 - (N) Offense committed and a summary of the facts of the crime committed.
 - (O) Religious affiliation.
 - (P) Date of commitment.
 - (Q) Committing county.
 - (R) Authority for the commitment.

- (S) Previous criminal record and any detainers.
 - (T) Name and address of the person to be contacted in event of an emergency.
 - (U) Marital status and any children.
 - (V) Medical history, including any substance abuse.
 - (W) Name and address of the inmate's attorney.
- (vi) Upon admission, a copy of the rules of the prison shall be provided to each inmate.
- (vii) How an inmate can notify a relative of the inmate's location.
- (viii) When non-United States citizens are detained, the detainee shall be advised of the right to have the detainee's consular officials notified or the nearest consular officials shall be notified of the detention, if required by the Vienna Convention. Consular officials shall be given access to non-United States citizen detainees and shall be allowed to provide consular assistance. Consular officials shall also be notified in the event of the death of a non-United States citizen detainee.
- (2) *Release.* Written local policy must provide for the following:
- (i) With all releases from the prison, release under proper legal authority and completeness of paperwork shall be verified.
 - (ii) Release procedures must include the following:
 - (A) Proper identification of inmate.
 - (B) Review of inmate file for detainers.
 - (C) Disposition of prison and personal property.
 - (D) Information exchange.
 - (E) Medication supply and medication instructions, as required.
 - (F) Victim notification.

Authority

The provisions of this § 95.222 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); amended under section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.222 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (263829) to (263830).

Notes of Decisions

Strip Search

Fourth Amendment rights were held to be violated when nine female pretrial detainees arrested for trespass brought an action against the local government and prison officials due to their subjection to an unreasonable and unjustifiable strip and visual body cavity search. *Newkirk v. Sheers*, 834 F.Supp. 772 (E. D. Pa. 1993).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.223. Orientation.

The following are the minimum requirements applicable to the orientation of inmates:

- (1) Written local policy must require orientation for every inmate within 14 days of admission as to the following:
 - (i) Prison rules of conduct.
 - (ii) Consequences for violation of the rules of conduct.
 - (iii) Mail, visiting and telephone procedures.
 - (iv) Access to medical care.
 - (v) Fees, charges or co-payments that may apply.
 - (vi) Prison grievance process.
 - (vii) Available treatment programs.
 - (viii) Available work programs.
- (2) Written local policy must provide for the orientation of illiterate and non-English speaking inmates. Orientation of each inmate shall be documented in the inmate file. Orientation may be in written, oral, audio or video format.
- (3) Written local policy must describe an inmate grievance process. The policy must include:
 - (i) The methods available for submitting a grievance.
 - (ii) The staff persons responsible for responding to a grievance. Grievances must have a written response for record.
 - (iii) An appeal process of at least one level.
 - (iv) Time frames for responses and appeals.
- (4) Written local policy must permit every inmate to make a request or submit a grievance to the prison administration, the judiciary or other proper authorities without censorship as to substance.

Authority

The provisions of this § 95.223 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); amended under section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.223 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial page (263831).

§ 95.224. Inmate rules and staff procedures.

The following are the minimum requirements applicable to inmate rules and staff procedures:

- (1) Written local policy must specify inmate rules that insure the security, control, safety and orderly administration of the county prison. These rules must indicate to both inmates and staff what inmate behavior is unacceptable and the consequences of unacceptable behavior.

(2) Written local policy must specify that inmates and staff have access to inmate rules. New or revised inmate rules shall be disseminated to staff and inmates prior to implementation.

(3) Written local policy must specify procedures that direct staff in the operation and maintenance of the county prison. The procedures must contain general and specific instructions for each duty post for the prison. The instructions must include the methods, techniques and time frames necessary to perform the duties of a particular duty post.

(4) Written local policy must specify procedures that direct staff in the event of fire emergencies, escapes and riots. These procedures must direct staff as to what actions are to be performed in a given duty assignment or duty post in these situations. These procedures must instruct staff as to the methods, techniques and time frames necessary to carry out the assigned duties.

(5) Written local policy must specify that operation and maintenance procedures and emergency procedures be disseminated to staff prior to implementation. Staff shall have ongoing access to these procedures.

(6) Written local policy must specify that inmate rules and staff procedures be reviewed by the prison administration on an annual basis. This review must determine if updates are necessary due to operational changes, changes in the law, constitutional standards or recognized professional standards. The annual review and updates shall be documented.

Authority

The provisions of this § 95.224 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.224 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (263831) to (263832).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.225. Classification.

The following minimum requirements apply to classification:

(1) An inmate classification plan shall be documented in written local policy.

(2) This plan shall establish classification based on the degree of security risk and need for supervision. The classification plan shall specify the following:

- (i) How the classification process is accomplished.
- (ii) What process of appeals exist.
- (iii) The review mechanism utilized.
- (iv) Explicit procedures for reclassification.

Authority

The provisions of this § 95.225 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 95.225 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866. Immediately preceding text appears at serial pages (203080) to (203081).

Notes of Decisions

Inmate has no liberty interest in remaining in general prison population. Even assuming a protected liberty interest, inmate received constitutionally sufficient process where plaintiff was personally interviewed upon arrival and initial decision was reviewed periodically. *Doss v. Rapone*, 601 F. Supp. 935 (E.D. Pa. 1985).

Due to the broad discretion given county jail officials, this section does not create a protected Fourteenth Amendment liberty interest. *Marshall v. Kozakiewicz*, 601 F.Supp. 1549 (W.D. Pa. 1985).

Due to the lack of explicit and mandatory language, the regulations pertaining to county prisons do not create a liberty interest in prisoners incarcerated therein and such prisoners have no right to notice and opportunity to be heard when their administrative status is determined. *Tyler v. Rapone*, 603 F. Supp. 268 (E.D. Pa. 1985).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.226. Housing.

The following are the minimum requirements applicable to housing:

- (1) Written local policy shall specify the process for segregation, removal or transfer of inmates requiring medical attention.
- (2) An inmate who is mentally ill or known to have a contagious disease shall be separated from the general population.
- (3) Female inmates shall be completely separated from male inmates. This does not preclude rehabilitative projects and food service assignments where male and female inmates could participate together with proper supervision.
- (4) In determining housing adequacy, the following factors shall be considered:
 - (i) Climatic conditions.
 - (ii) Minimum floor space.
 - (iii) Heating.
 - (iv) Ventilation. Each room shall allow the entrance of fresh air.
 - (v) Lighting. Artificial light sufficient for inmates to read or work without injury to eyesight shall be provided.
 - (vi) Sufficient toilet facilities are required.
 - (vii) Bathing facilities shall be provided so that every inmate may use them as frequently as necessary for personal hygiene.
- (5) All parts of the prison used by inmates shall be properly maintained and kept clean at all times.

Authority

The provisions of this § 95.226 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 95.226 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866. Immediately preceding text appears at serial pages (203081) to (203082) and (253017).

Notes of Decisions*Administrative Segregation*

There is no provision in these regulations for a hearing to challenge a warden's decision to place a prisoner in administrative segregation. Therefore, because the warden had unchecked power to place plaintiff in administrative segregation, the State did not create a liberty interest and plaintiff had no due process right to a hearing concerning placement and retention in administrative segregation. *Williams v. Sweeney*, 882 F. Supp. 1520 (E. D. Pa. 1995).

Improper Housing

Proper housing was not provided where the prison population often exceeded the maximum number of inmates that could be housed in cells and the inmates were housed on cots in the walkways outside the cells. *Padgett v. Stein*, 406 F.Supp. 287 (M.D. Pa. 1975).

Where prisoners were housed on cots in the walkways outside the cells because of overcrowded conditions, it was impossible to house prisoners in groups according to their classification. *Padgett v. Stein*, 406 F.Supp. 287 (M.D. Pa. 1975).

A pretrial detainee, who was stabbed by an inmate who had just been sentenced to death after a murder conviction, failed to establish that prison officials demonstrated deliberate indifference by violating a statutory provision stating that "[s]entenced prisoners should be housed separately from those who are only accused of having committed a crime," where this provision of the *Pennsylvania Code* is not a mandatory requirement but rather is a recommended guideline, and where the pretrial detainee failed to present evidence that the prison officials had sufficient knowledge or notice of the risks of not following this recommendation guideline that not following it would equate to deliberate indifference. *Faulcon v. Philadelphia*, 18 F. Supp. 2d 537 (E. D. Pa. 1998); affirmed by 185 F.3d 861 (3rd. Cir. (Pa.) 1999); cert. denied 120 S. Ct. 1733 (U. S. 2000).

Rights of Prisoners

Due to the lack of explicit and mandatory language, the regulations pertaining to county prisons did not create a liberty interest in prisoners incarcerated therein and such prisoners have no right to notice and opportunity to be heard when their administrative status was determined. *Tyler v. Rapone*, 603 F. Supp. 268 (E.D. Pa. 1985).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.227. [Reserved].**§ 95.228. Clothing.**

The following are the minimum requirements applicable to clothing:

- (1) Written local policy shall provide for each inmate to receive suitable clean clothing including adequate footwear and underwear.
- (2) Written local policy shall stipulate whether inmates may possess personal clothing.

(3) Written local policy shall determine whether a prison elects to store personal clothing. Personal clothing, if stored, shall be stored in a sanitary manner.

Authority

The provisions of this § 95.228 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 95.228 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866; corrected February 25, 2000, 30 Pa.B. 1129. Immediately preceding text appears at serial pages (253017) to (253018).

§ 95.229. Bedding.

The following are the minimum requirements applicable to bedding:

(1) Written local policy must specify that inmates be provided a bed, mattress (not to exclude a mattress with integrated pillow), bed sheet, pillow, pillowcase, towel and blanket. The bed must be a sleeping surface and mattress that allows the inmate to be at least 12 inches off the floor. The mattress and pillow must have a waterproof and fire retardant cover. The bed must be located in an area preapproved for residential occupancy by the Department of Labor and Industry or local code authority.

(2) Written local policy must define emergency circumstances that would require the use of temporary bedding arrangements that may not meet the requirements of paragraph (1). An inmate may not be subject to temporary bedding arrangements for a period exceeding 30 consecutive days. Temporary bedding arrangements may not be utilized by the county prison for a period exceeding 90 consecutive days.

(3) Written local policy must provide that the prison administrator has discretion to issue bedding items to or removing bedding items from an inmate when possession of those items by the inmate could compromise the order, security or safety of the prison.

(4) Written local policy must provide that each mattress and pillow is sanitized chemically or by another acceptable method and is in usable condition before reissue to another inmate. Each in-use mattress and pillow shall be sanitized at least annually.

(5) Written local policy must provide for the laundering of bed sheets, pillowcases, towels and blankets before reissue to another inmate. In-use bed sheets, pillowcases and towels shall be laundered on a weekly basis. In-use blankets shall be laundered at least quarterly.

Authority

The provisions of this § 95.229 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186), and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.229 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial page (263835).

§ 95.230. Food services.

The following are the minimum requirements applicable to food services:

(1) Written local policy must specify that each inmate be provided a daily diet that is nutritionally adequate for the maintenance of good health. Written local policy must recognize dietary requirements for those inmates whose medical condition requires prescribed therapeutic attention, for those inmates whose religious beliefs require adherence to specified and approved religious dietary law and for those inmates under segregation or disciplinary status, or both, whose behavior requires a different meal consistency. Regular and alternative menus shall be approved and signed by a registered dietician or licensed physician, or both, and the prison administrator on an as needed basis, but no less than on an annual basis.

(2) Written local policy must provide that food is prepared and served in a sanitary manner. The prison food preparation areas and food distribution areas shall be maintained in a safe and clean condition at all times. Food shall be stored and prepared in a proper manner to assure freshness and to prevent spoilage and damage from insects and rodents. Appropriate food service head cover, beard/facial hair cover and gloves shall be worn by staff, food service contractor and inmates engaged in food preparation or distribution, or both. Written local policy must require that one supervisory food service employe become certified in food safety and sanitation in accordance with 3 Pa.C.S. §§ 6501—6510 (relating to food employee certification). There shall always be a “person in charge” present during all hours of operations. If the “person in charge” is not certified, that person shall receive documented training as to the food safety and sanitation procedures as established by written local policy.

(3) Written local policy must provide for the control and use of culinary equipment. All culinary equipment shall be identified and accounted for on an inventory list. In addition, cutlery items shall be documented as to being checked in and out, to control use at all times. When not in use, cutlery shall be stored in a secure manner.

(4) Written local policy must establish preassignment and periodic medical clearance for staff, food service contractor and inmate food service workers. Food handlers shall wash their hands upon reporting to duty and after using toilet facilities.

(5) Written local policy must identify the methods available to clean, rinse and sanitize prison-issued eating and drinking utensils at least weekly. These eating and drinking utensils shall be cleaned, rinsed and sanitized before being reissued to another inmate.

(6) Written local policy must provide that compartmented trays, plastic ware and paper products be utilized to serve the food. More than one type of food may not be served in a noncompartmented container during normal feeding operations. Food shall be served as promptly as possible, at the proper temperature.

Authority

The provisions of this § 95.230 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186) and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.230 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (263836) to (263837).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.231. Personal hygiene.

The following are the minimum requirements applicable to personal hygiene:

- (1) Inmates shall be required to maintain proper hygiene standards.
- (2) Inmates shall bathe at least twice a week.
- (3) An inmate determined to be indigent shall be provided with articles to attain satisfactory personal hygiene.
- (4) Inmate hair styles shall comply with sanitation and security policies of the prison.
- (5) Female inmates shall be provided articles for feminine hygiene when needed.
- (6) Written local policy shall provide a means for inmates to obtain clean clothing on a weekly basis.

Authority

The provisions of this § 95.231 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 95.231 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866. Immediately preceding text appears at serial page (203085).

§ 95.232. Medical and health services.

The following are the minimum requirements applicable to medical and health services:

(1) Written local policy must specify that all inmates admitted to the prison receive a health care screening performed and recorded by a person with health care training within 24 hours of admission. The health care screening must include a structured inquiry and observation designed to identify newly-committed inmates who pose a health or safety threat to themselves or others. Screening can be performed by health care professionals or by health-trained correctional staff at the time of admission. A record of the result of the examination shall be kept as a part of the permanent prison document.

(2) Written local policy must specify that an inmate determined upon admission not to be in good health be assessed by a health care professional within 24 hours.

(3) Written local policy must specify that following review of the initial commitment screening by a health care professional, a medical history and physical examination be performed by the prison health care provider within 14 days following admission.

(4) Written local policy must specify routine screening procedures utilized for infectious diseases, acute illness and suicide risk.

(5) Written local policy must designate a health care provider responsible for control of the delivery of health care services including mental health services. A health care provider or professional shall have sole province on matters involving medical judgment.

(6) Written local policy must provide that the health care provider report in writing on the health care delivery system to the prison providing information sufficient to demonstrate that adequate health care is being provided to inmates and review findings with prison administrators annually.

(7) Written local policy must provide for an annual documented review of a prison's health care delivery system by the prison and when necessary, revisions shall be made to each health care procedure and program by the prison.

(8) Written local policy must provide for access to emergency care 24 hours a day for all inmates. A written plan must outline onsite treatment, evacuation, transportation and security procedures and designate emergency facilities to be utilized. All corrections personnel shall be certified in basic first aid and cardiopulmonary resuscitation in accordance with the time frames established by the organization that conducts the training.

(9) Written local policy must provide for the management of pharmaceuticals. The policy must include:

(i) Formulary and prescription practices.

(ii) Medication procurement, receipt, dispensing, distribution, storage and disposal, as supervised by properly licensed personnel in accordance with The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

(iii) Secure storage and inventory of all controlled substances, syringes and needles.

(10) Written local policy must provide for a suicide prevention and intervention program and outline the program review mechanisms utilized and staff training procedures for program implementation. Staff training must occur on an annual basis.

(11) Written local policy must provide that medical and dental instruments, equipment and supplies be controlled and inventoried.

(12) Written local policy must specify the scope of dental treatment to be provided to an inmate. This treatment must include extraction and other work of an emergency nature as needed. Written local policy must specify how an inmate is to obtain the available dental treatment.

Authority

The provisions of this § 95.232 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.232 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (336805) to (336806) and (263839).

Notes of Decisions

Cause of Action Stated

If a prisoner alleged that prison authorities were informed of prisoner's drug habit upon admission and prisoner requested medical treatment, but received no attention for 10 days and inadequate treatment thereafter, during which time prisoner went through a period of painful drug withdrawal, prisoner had stated a Federal claim upon which relief may be granted. *United States ex rel Walker v. Fayette County*, 599 F.2d 573, (3d Cir. 1979).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.233. Visiting.

The following are the minimum requirements applicable to inmate visiting:

- (1) Written local policy must explain inmate visiting procedures, including:
 - (i) Availability of contact or noncontact visitation, or both.
 - (ii) Visitor approval procedure.
 - (iii) Frequency and duration of visits.
- (2) Written local policy must require that visitors register upon admission to the prison. Written local policy must describe the circumstances and the types of searches under which visitors are subjected.
- (3) Written local policy must require that each inmate be permitted at least 30 minutes of visitation time weekly. Restrictions may be placed on visiting, including denial of a visit, when, in the discretion of the prison administrator, the restrictions are necessary to maintain the safety or security of the prison.

(4) Written local policy must, in accordance with the Official Visitation of Prisons Act (61 P. S. §§ 1091—1095), provide for visits by official visitors. Written local policy must require that accommodations be made to provide for the privacy of conversation during these official visits.

(5) Written local policy must allow for visits by an inmate's attorney or clergy. Written local policy must require that accommodations be made to provide for the privacy of conversation during these visits.

(6) Written local policy must require that each inmate be provided inmate visiting information upon admission. This information must also be made available to the public.

Authority

The provisions of this § 95.233 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.233 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (263839) to (263840).

Notes of Decisions

Evidence

Evidence insufficient to show regulation violated. *Montagano v. Sweeney*, No. 94-2959, 1995 U. S. Dist. LEXIS 6169 (May 4, 1995).

Procedure

While it is very likely true that inmates will perceive any suspension of a spouse's visiting privileges as punitive, this regulation cannot be read to suggest that any decision to deny or suspend visiting privileges must be accompanied by an opportunity to be heard. *Montagano v. Sweeney*, No. 94-2959, 1995 U. S. Dist. LEXIS 6169 (May 4, 1995).

§ 95.233a. Telephone communication.

The following are the minimum requirements applicable to telephone communication:

- (1) Written local policy must specify whether inmates are permitted telephone communication. If so, the policy must explain telephone procedures, including:
 - (i) Hours during which telephone communication is available.
 - (ii) Any limitations on calls.
 - (iii) Cost/method of payment.
- (2) Written local policy must, in accordance with 18 Pa.C.S. § 5704 (relating to the exceptions to prohibition of interception and disclosure of communications), specify whether inmate telephone conversations are subject to intercepting, recording, monitoring or divulging. If so, the policy must establish the guidelines which permit those activities.

(3) Written local policy may allow for restrictions to be placed on telephone communication, including denial of telephone usage, when, in the discretion of the prison administrator, the restrictions are necessary to maintain the safety or security of the prison.

(4) Written local policy must require that each inmate be provided information about telephone communication upon admission. This information must also be made available to the public.

Authority

The provisions of this § 95.233a adopted under section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.233a adopted October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627.

§ 95.234. Inmate mail privileges.

The following are the minimum requirements applicable to inmate mail privileges. Inmates shall be permitted to send and receive mail consistent with the following:

(1) Incoming and outgoing mail may be examined for contraband.

(2) Incoming and outgoing mail to and from public officials, courts and attorneys will not be opened for purposes of examining for contraband unless the interested inmate is present.

(3) Incoming and outgoing mail to a person or entity may be read by the prison warden if reasonable grounds exist to believe that receipt of the mail is likely to jeopardize prison security or public safety and welfare, or both.

(4) The sending and receipt of mail shall be restricted or prohibited for valid penological reasons such as introduction of contraband, threats to security or the public, or when requested by intended recipients.

Authority

The provisions of this § 95.234 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.234 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866. Immediately preceding text appears at serial pages (203088) and (261613).

Notes of Decisions*Inmate-to-Inmate Correspondence*

Inmate-to-inmate correspondence may be restricted provided the restriction is reasonably related to valid correction goals and inmate's complaint was dismissed since he failed to allege that he was authorized to correspond with another inmate. *Williams v. Frame*, 821 F.Supp. 1093 (1993).

§ 95.235. Work programs.

The following are the minimum requirements applicable to inmate work programs:

(1) Written local policy must identify any authorized inmate work programs such as work assignment program, industries program, public works/community service program or work release program. Written local policy must specifically prohibit prison staff from using their official position to secure privileges for themselves or others in association with an inmate work program.

(2) Written local policy must identify whether sentenced inmates may be required to participate in a work program based upon availability. Unsented inmates may not be required to participate in a work program, but may request involvement in a work program.

(3) Written local policy must require that inmates who participate in a work program (other than personal housekeeping and housing area cleaning) receive compensation. Written local policy must specify the type and amount of compensation.

(4) Written local policy must require that inmates be provided appropriate clothing, supplies and tools for any work assignment program, industries program or public works/community service program. The inmate must receive direction on the proper use of any equipment or tools to be used by the inmate during any work assignment program, industries program or public works/community service program.

(5) Written local policy must specify that there may be no discrimination regarding access to a work program based on an inmate's race, religion, national origin, gender or disability.

Authority

The provisions of this § 95.235 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.235 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (263840) to (263841).

§ 95.236. Access to legal resources.

The following are the minimum requirements applicable to access to legal resources:

- (1) To enable inmates to exercise their right of access to the courts, inmates shall be permitted access to adequate legal resources. Written local policy shall provide a means of assistance for an inmate that does not speak English.
- (2) County wardens shall have discretion in determining the type of legal resources to be made available to ensure inmates can exercise their right to access to the courts.

Authority

The provisions of this § 95.236 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 95.236 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866. Immediately preceding text appears at serial page (261613).

§ 95.237. Religion.

The following are the minimum requirements applicable to religion:

- (1) Written local policy must provide that each prisoner shall be allowed to satisfy the needs of his religious life consistent with the orderly administration of the prison.
- (2) Written local policy must require that individuals seeking to provide religious guidance to inmates be screened and selected by the prison administrator or a designee.
- (3) Written local policy must provide for the accommodation of religious practices consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request for accommodation of a religious practice or activity.
- (4) Written local policy must provide that inmates are permitted to possess religious objects consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request to possess religious objects that would otherwise be considered contraband.
- (5) Written local policy must provide for the accommodation of special foods, diets and fasts as part of an inmate's religious practices consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request for accommodation of these practices.

Authority

The provisions of this § 95.237 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.237 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (263841) to (263842).

§ 95.238. Recreation.

The following are the minimum requirements applicable to recreation:

- (1) Jails shall provide all prisoners at least 2 hours daily, physical exercise in the open, weather permitting. If the weather is inclement, each inmate shall have 2 hours physical exercise daily indoors.
- (2) Written local policy shall describe the prison's recreational programming for inmates.
- (3) Physical exercise schedules for males, females and juveniles shall be arranged to provide for segregation. Jail administrators may separate inmates further based on age, vulnerability and other appropriate security criteria.
- (4) Inmates under disciplinary status or segregation shall receive 1 hour of outdoor activity 5 days a week.

Authority

The provisions of this § 95.238 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 95.238 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866. Immediately preceding text appears at serial page (222409).

§ 95.239. Commissary and other funds.

The following are the minimum requirements that apply to commissaries and other funds:

- (1) County prisons may provide commissary services if the county so chooses.
- (2) Written local policy must require that funds associated with commissary services be audited and reported on an annual basis by an independent party using generally accepted accounting principles.

(3) Written local policy must describe a fiscal system that accounts for all income and expenditures on an ongoing basis. Methods for collecting, safeguarding and disbursing moneys must comply with generally accepted accounting principles. A financial audit of the prison shall be conducted annually by a certified, independent party using generally accepted accounting principles. The financial audit must result in an opinion that either affirms or disaffirms the accuracy of the records or accounts.

(4) Written local policy must require that funds associated with inmate telephone services be audited and reported to the governing county prison authority on an annual basis by an independent party using generally accepted accounting principles.

(5) Written local policy must require that funds associated with an industries program and a work release program be audited and reported to the governing county prison authority on an annual basis by an independent party using generally accepted accounting principles.

Authority

The provisions of this § 95.239 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.239 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial page (336807).

§ 95.240. Inmate disciplinary procedures.

The following are the minimum requirements applicable to inmate disciplinary procedures:

(1) Written local policy must identify a disciplinary process that provides clear notice of prohibited behavior and consistently applied sanctions for violations of prison rules. Disciplinary procedures governing inmate rule violations must address the following:

- (i) Rules.
- (ii) Minor and major infractions.
- (iii) Criminal offenses.
- (iv) Disciplinary reports.
- (v) Prehearing actions.
- (vi) Prehearing detention.
- (vii) Appeal of disciplinary decisions.

(2) Written local policy must identify violations of prison rules that are designated as a major infraction, a minor infraction or those not rising to the level of a major or minor infraction.

(i) A major infraction involves a grievous loss and requires use of a hearing procedure for resolution. Major infractions include:

(A) Violations that may result in disciplinary detention or administrative segregation.

(B) Violations for which punishment may tend to increase an inmate's sentence, such as extending parole eligibility.

(C) Violations that may result in forfeiture, such as loss of earned time.

(D) Violations that may be referred for criminal prosecution.

(ii) A minor infraction charge may be resolved without a hearing procedure and without the imposition of serious penalties. Minor infractions do not violate any State or Federal statutes and may be resolved informally by reporting staff.

(3) Written local policy must provide that discipline for a minor infraction may not be imposed unless a written statement as to the rule violated is prepared and a person not involved in the rule violation reviews the statement and makes a decision as to guilt.

(4) Written local policy must provide that discipline for a major infraction may not be imposed unless the inmate has been informed of the offense charged in writing, has had an opportunity to present a defense and has been found guilty of the charge by an impartial party or board designated by the prison administrator. Findings of guilt or innocence must be expressed in writing and based on information presented. Written findings of guilt must state the reasons for the finding.

(5) Written local policy must provide that disciplinary charges and written findings relative to a major infraction be recorded and made a permanent part of an inmate's prison file.

(6) Written local policy must provide that disciplinary sanctions imposed after a finding of guilt for a major infraction may include loss of privileges, segregation or other sanctions as set forth in written local policy.

(7) Written local policy may allow for informal resolution of rule infractions not rising to the level of a major or minor infraction. Participation by an inmate in informal resolution of a rule infraction shall be on a voluntary basis only.

(8) Written local policy must provide that when an inmate in disciplinary status is deprived of any usual authorized items or activity, a report of the action is to be made to the prison administrator. If an inmate in disciplinary status uses food or food service equipment in a manner that is hazardous to self, staff or other inmates, an alternative meal may be provided, upon the approval of the prison administrator or designee and responsible health care provider.

(9) Written local policy must provide that the imposition of discipline not violate an inmate's right to be free from cruel and unusual punishment.

Authority

The provisions of this § 95.240 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.240 readopted May 18, 1979, 9 Pa.B. 1619; amended February 18, 2000, effective February 19, 2000, 30 Pa.B. 866; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (336807) to (336808).

Notes of Decisions*Administrative Segregation*

There is no provision in these regulations for a hearing to challenge a warden's decision to place a prisoner in administrative segregation. Therefore, because the warden had unchecked power to place plaintiff in administrative segregation, the state did not create a liberty interest and plaintiff had no due process right to a hearing concerning placement and retention in administrative segregation. *Williams v. Sweeney*, 882 F. Supp. 1520 (E. D. Pa. 1995).

Prisoner's Rights

The regulations governing discipline and proper procedures to be followed before disciplinary action can be imposed gave rise to a nondiscretionary State-created liberty interest, and failure to provide a hearing on plaintiff's confinement as part of a punishment constituted a deprivation of due process rights guaranteed by the U. S. CONST. amend. XIV. *Todaro v. Bowman*, 872 F.2d 43 (3rd. Cir. (Pa) 1989).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.241. Security.

The following are the minimum requirements applicable to security:

(1) *Supervision of inmates.* Written local policy must provide for the following:

(i) The number of staff required to maintain care, custody and control of the inmate population on a 24-hour basis. Staff used to maintain the care, custody and control of the inmate population shall meet the minimum training requirements of § 95.221 (relating to personnel).

(ii) An initial staffing analysis shall be conducted by the prison administrator or a designee to determine the staffing allotment and post assignments necessary to safely operate the prison. In determining the number of staff needed, relief factors are to be calculated for each classification of staff that is assigned to relieve posts or positions. The staffing analysis shall be reviewed and documented on an annual basis by the prison administrator. Information on the number and type of positions filled and vacant shall be available for review by the Department's inspectors.

(iii) Assignments/posts shall be staffed without regard to gender except where reasonable accommodation to inmate privacy cannot be maintained.

Prison staff of the opposite gender to that of the inmate population may not be given assignments/posts that require continuous and open viewing of unclothed inmates. When both male and female inmates are housed in the prison, at least one male corrections staff member and one female corrections staff member shall be on duty at all times.

(iv) Inmates may never be permitted to assume any authority over other inmates. Inmates may not be permitted access to prison employe records, the records of other inmates or other prison records.

(v) The prison shall maintain a 24-hour secure control center for monitoring and coordinating the prison's security, life safety and communications systems.

(vi) The prison administrator or assistant prison administrator and management staff designated by the prison administrator shall visit the prison's living and activity areas at least monthly to encourage contact with staff and inmates and observe living and working conditions. The visit shall be documented.

(2) *Use of force.* Written local policy must provide for the following:

(i) Force shall be restricted to instances of justifiable self-defense, protection of others, protection of property, prevention of escapes, and to effect compliance with the rules and regulations of the facility when other methods of control are ineffective or insufficient and only the least amount of force necessary to achieve that purpose is authorized. Force may not be used as a means of punishment or revenge.

(ii) Written local policy must specifically identify the following:

(A) Authorized purposes allowing for the use of force.

(B) Authorized equipment such as physical restraints, chemical agents, stun devices, batons or firearms permitted for use by prison staff.

(C) The appropriate limitations for the authorized use of force.

(D) A force option, beginning with the least amount of force necessary and progressing through the degrees of nondeadly and deadly force.

(E) Secure storage arrangements for restraints, chemical agents, stun devices, batons and firearms. A written record shall be maintained as to the distribution of these items. A documented inventory of these items shall be conducted on a monthly basis to determine accountability and condition.

(F) Circumstances and types of force requiring specific authorization and who shall authorize the use of the force.

(G) Medical consultation, review and treatment required when use of force occurs.

(H) Training for staff in the use of force. The training must occur before staff is assigned to a post involving the possible use of authorized equipment. This training must cover the use, safety and care of the equipment and the limitations on its use. The prison staff authorized to use the equipment shall demonstrate competency in its use in accordance with the

training or certification standards recommended by the manufacturer of the equipment. The competency must be documented.

(iii) Law enforcement personnel conducting official business on prison premises who have in their possession equipment or weapons not permitted into the prison shall be provided a locked security area to properly secure the equipment or weapons.

(iv) Each prison staff member involved in any use of force for other than routine inmate movement/escort/transportation shall submit a written report to the prison administrator or a designee. In addition, this information shall be documented and reported to the Department, as required under § 95.242 (relating to statistical/informational reporting).

(3) *Emergency plans.* Written local policy must provide for the following:

(i) Establishment of emergency plans for responding to emergency incidents, including escape, fire, disturbances, hostage taking, bomb threat, terrorism, biological/chemical incidents, utility outages, natural disasters and evacuation/relocation. The emergency plans must contain basic information and instructions for all prison staff including:

(A) To whom the emergency shall be reported.

(B) Chain of command during an emergency.

(C) Outside agencies to be contacted for response to an emergency.

(D) A description of duties of staff for each type of emergency.

(E) Identification of emergency keys/security devices and access location. There shall be a means for the immediate release of inmates from locked areas and provisions for a back-up system.

(F) Evacuation plan.

(G) How to use emergency equipment.

(H) Training for staff to handle emergencies. Prison personnel shall be trained annually in the implementation of the emergency plans. The training shall be documented.

(I) The written agreements with other jurisdictions for handling emergency incidents and the possible evacuation of inmates.

(ii) To be in alignment with the *National Response Plan* and the *Commonwealth of Pennsylvania Emergency Operations Plan*, written local policy must also require the prison to institute an all-hazards approach to incident response and incorporate the principles of the National Incident Management System into its operations and operations plans. Additionally, written local policy must require that the prison coordinate with the county emergency management agency about the hazards to which the prison and prison population may be vulnerable as known and documented in the county hazard vulnerability analysis.

(iii) Emergency plans shall be reviewed by the prison administrator or a designee on an annual basis. This review must determine if updates are necessary due to operational changes, changes in the law, changes in constitu-

tional standards or in recognized professional standards. The annual review and updates shall be documented.

(iv) Any emergency shall be documented and reported to the Department, as required under § 95.242.

(4) *Access control.* Written local policy must identify:

(i) Current listing of all keys/access cards.

(ii) Storage/back-up/protection arrangements for keys/access cards and accessible security devices. Keys/access cards shall be stored in a secure location when not in use. A set of emergency prison keys/access cards shall be stored in a controlled location outside the secure perimeter.

(iii) Criteria for use of keys/access cards and security devices.

(iv) Security measures required for the installation/maintenance/repair/replacement of keys/access cards and security devices. An inspection of all keys/access cards and security devices shall be conducted quarterly to determine status, condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or a designee.

(v) Staff responsible for authorizing use of applicable keys/access cards and security devices. Inmates may not be permitted access to keys/access cards and security devices.

(vi) An inventory and receipt system to account for keys. Keys/access cards shall be checked out and checked in. A record shall be maintained to identify keys/access cards issued, identifying the person possessing and returning the key/access card. The record must allow a current accounting as to the location and possessor of keys/access cards.

(vii) Staff training required to use keys/security devices, particularly the ability to release inmates in the event of a fire or other emergency.

(5) *Contraband control.* Written local policy must describe time, methods and techniques and identify:

(i) What is considered contraband.

(ii) Procedures for conducting personal searches of inmates, vendors, volunteers, visitors and staff. All individuals shall be subject to search upon entering or leaving the prison. Inmates permitted to leave the prison for any reason shall be searched prior to reentering the prison.

(iii) Procedures for conducting cell/dormitory/area searches. Searches of all cell/dormitory/area locations shall be conducted at least twice annually to determine the presence of contraband and the security status of bars, doors and windows. The results shall be documented and submitted to the prison administrator or a designee.

(iv) Procedures for conducting security checks of the interior and the security perimeter of the prison. At least one daily security check shall be conducted of all interior areas and the security perimeter to determine matters such as staff and inmate concerns and faulty or unsafe conditions. The

results of this security check shall be documented and submitted to the prison administrator or a designee.

- (v) Staff training required to conduct searches/security checks.
- (6) *Tool/equipment control.* Written local policy must identify:
 - (i) The current listing of authorized tools/equipment.
 - (ii) Security measures required for the maintenance/repair/replacement of tools/equipment. An inspection of all tools/equipment shall be conducted semiannually to determine status, condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.
 - (iii) The staff responsible for authorizing use of tools/equipment. Inmates may not be permitted access to these items, except as issued by authorized prison staff.
 - (iv) The storage arrangements for tools/equipment. Tools/equipment shall be stored in a secure locker or area when not in use. These items shall be stored so that their presence or absence can be immediately determined.
 - (v) An inventory and receipt system to account for all tools/equipment. Inmates may not have access to the tool storage area without staff supervision.
 - (vi) The direction given to staff and inmates in the use of tools/equipment.
 - (vii) The safety procedures to protect persons who use tools/equipment.
 - (viii) Inmates given assignments in the work assignment program, industrial program or the public works/community service program shall be supervised by persons designated by the prison administrator or a designee. These inmates shall be subject to searches as prescribed by procedure.
- (7) *Count control.* Written local policy must require that at least one formal, physical inmate headcount be conducted for each shift, with at least three head counts being completed within each 24-hour period. Each head count shall be documented in the prison's records. In the performance of the formal inmate head counts, each inmate in attendance shall be observed as to flesh and movement. There shall be strict accountability for all temporary absences from the prison by an inmate. Only prison staff trained to conduct a formal inmate head count shall perform such a count. Written local policy must describe time, methods and techniques to be followed in making any counts and remedying count discrepancies.
- (8) *Inmate transportation.* Written local policy must identify the circumstances and means for transporting inmates, including specifying the vehicles and persons authorized for that purpose. Written local policy must identify what restraint and search techniques are to be used and any special precautions. Written local policy must include contingency plans to be followed in the event of an accident, escape/security breach or medical emergency during transportation.

Authority

The provisions of this § 95.241 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.241 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (336808), (263845) to (263848) and (336809) to (336810).

Notes of Decisions*Firearms*

A corrections officer's ability to carry a firearm, except for emergency assignment was merit-related for purposes of The Civil Service Act. *Bureau of Correction v. Yancey*, 481 A.2d 702 (Pa. Cmwlth. 1984).

Force Appropriate

Improperly shackling an inmate to the bars of a gate and shackling the inmate to a desk for purposes of physical abuse constituted violations of State regulations governing the use of instruments of restraint. *Musser v. County of Centre*, 515 A.2d 1027 (Pa. Cmwlth. 1986).

The actions by two prison guards towards a prison inmate violated State administrative regulations which set forth specifically limited circumstances, including the need to protect persons or property or to prevent escape, under which a prison inmate may be subjected to physical force and instruments of restraint. *County of Centre v. Musser*, 548 A.2d 1194 (Pa. 1988).

Physical Force—Excessive

Actions by prison guards, including wrestling a prisoner to the ground and thrusting a pillowcase full of shaving cream over the inmate's head, applying BenGay to the inmate's genitals and inserting a 2-inch spout from a bottle filled with water into his anus were in contravention of State regulations governing use of physical force. *Musser v. County of Centre*, 515 A.2d 1027, 1029 (Pa. Cmwlth. 1986); affirmed 548 A.2d 1194 (Pa. 1988).

Searches

Since this section required the warden to periodically search inmates and their cells for contraband, the prison officials may decide whether the search should be conducted during a prison-wide lockup or whether some less restrictive means was appropriate. *Saunders v. Packel*, 436 F. Supp. 618 (E. D. Pa. 1977).

Supervision of Inmates

Assuming an inmate population of 168, a county prison must employ a minimum of 33 full-time correctional officers. *Padgett v. Stein*, 406 F. Supp. 287 (M. D. Pa. 1975).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.242. Statistical/informational reporting.

The following are the minimum requirements applicable to the collection of statistics and other information by the Department:

- (1) *Monthly county prison and jail data.* Written local policy must provide that a completed County Data Monthly Report (Population Information) be

submitted to the Department on designated report forms or by other available approved methods. The County Data Monthly Report (Population Information) shall be submitted within 30 days of the end of the reporting month.

(2) *Report of extraordinary occurrence.* Written local policy must provide for the following:

(i) County prisons shall submit to the Department a completed County Extraordinary Occurrence Monthly Report (Incident Information) on designated report forms or by other available approved methods. The County Extraordinary Occurrence Monthly Report (Incident Information) shall be submitted within 30 days of the end of the reporting month.

(ii) An incident qualifies as an extraordinary occurrence when an incident involves one or more of the following and meets the associated conditions:

<i>TYPE OF INCIDENT</i>	—	<i>ONLY COMPLETE IF</i>
Death	—	All cases
Natural		
Accidental		
Homicide		
Suicide		
Escape	—	Law enforcement referral
Actual		
Walk-a-Way		
Attempt		
Infectious Diseases/ Communicable Diseases	—	Department of Health reporting required
Mental Health Commitment	—	All cases
Mental Health 302		
Mental Health 304		
Attempted Suicide	—	Medical treatment beyond immediate first aid or mental health referral or both
Use Of Force	—	Whenever utilized for other than routine use of restraints during inmate movement/escort/ transportation
Physical		
Restraints		
Chemical agent		

<i>TYPE OF INCIDENT</i>	<i>—</i>	<i>ONLY COMPLETE IF</i>
Stun device		
Baton		
Firearms		
Assault	—	Medical treatment beyond immediate first aid or law enforcement referral or both
On Staff By Inmate		
On Inmate By Staff		
On Inmate By Inmate		
Sexual Assault/ Allegation of Sexual ASSAULT	—	<i>All Cases</i>
On Inmate by Inmate		
On Inmate by Staff		
Emergency	—	Outside agency assistance or law enforcement referral or both
Fire		
Disturbance		
Hostage		
Bomb threat		
Terrorism		
Biological/chemical		
Utility outages		
Evacuation/ relocation		

(iii) An incident qualifies as an extraordinary occurrence when an incident involves an inmate, prison employe, contractor, volunteer or visitor in a situation occurring within the prison, on prison property or while an inmate is under custody of the prison, or during the performance of a prison employe's official duties.

(3) Written local policy must provide that a completed Annual County Prison General Information Report be submitted to the Department on designated report forms or by means of other available approved methods. The Annual County Prison General Information Report for the preceding calendar year shall be submitted by the first Monday in March of each year.

(4) The data and information submitted to the Department in the County Data Monthly Report, the County Extraordinary Occurrence Monthly Report and the Annual County Prison General Information Report will be collected for statistical, analytical and trending purposes only.

(5) Information required upon commitment of offender to the Department.

(i) Written local policy must establish the procedure necessary to ensure that the information which must accompany an inmate upon commitment to the custody of the Department is provided to the Department as required under 42 Pa.C.S. § 9764(a) (relating to information required upon commitment and subsequent disposition). The policy must also specify the person responsible for collecting the information and ensuring that it is submitted to the Department as required by law.

(ii) Written local policy must establish the procedure necessary to ensure that the additional information regarding an inmate, which is provided by the court to the county prison in accordance 42 Pa.C.S. § 9764(b), is transmitted to the State correctional facility, as required under 42 Pa.C.S. § 9764(c), following transfer of that inmate from the county prison. The policy must also specify the person responsible for collecting the information and ensuring that it is submitted to the Department as required by law.

Authority

The provisions of this § 95.242 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.242 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (336810) and (263851).

§ 95.243. Treatment services.

The following are the minimum requirements applicable to treatment services:

(1) Written local policy must:

(i) Designate that the delivery of treatment services shall be supervised by a treatment professional who is employed by the prison, someone under contract with the prison or who serves as a volunteer.

(ii) Identify treatment services.

(iii) Designate who is responsible to provide each treatment service.

(iv) Identify the number of hours provided per week for each treatment service and the total number of hours provided per week for all treatment services.

(2) Written local policy must require treatment services to include the following:

(i) Education.

(ii) Social services.

(iii) Alcohol and other drugs.

(iv) Counseling services.

(3) Written local policy must require treatment services to be provided by a treatment professional or a person certified, licensed or trained to provide that

programming who is employed by the prison, under contract with the prison or who serves as a volunteer, or by any combination thereof.

(4) Written local policy must specify that inmates admitted to the prison receive a treatment intake screening, performed and recorded by a person with treatment training. This screening must include the determination of current mental and emotional stability, medical status, immediate personal/family issues, the identification of legal representation, and the obtaining of the name of a relative or other person for notification in the event of an emergency. A record of the screening shall be kept as part of the permanent prison document.

(5) Written local policy must require that an inmate determined upon admission to be in need of immediate treatment services be assessed by a treatment professional within 7 days.

(6) Written local policy must require that a treatment needs assessment be conducted by a treatment professional within 90 days following admission. This assessment must identify individual treatment needs and, within available prison and community resources, provide for access to supportive and rehabilitative services. The assessment shall be recorded as part of the inmate's file. Follow-up available treatment services shall begin within 45 days of the treatment needs assessment.

(7) Written local policy must identify the procedures for evaluating whether an inmate is mentally ill and proceedings under the Mental Health Procedures Act (50 P. S. §§ 7101—7503) should be initiated.

(8) Written local policy must provide that inmates shall have the option to refuse treatment services except when subject to an involuntary commitment under the Mental Health Procedures Act or unless otherwise directed by court order.

(9) Written local policy must specify that there is no discrimination regarding treatment services access based on an inmate's race, religion, national origin, gender, or disability. If both genders are housed in the prison, all available services and programs shall be comparable.

Authority

The provisions of this § 95.243 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.243 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (263851) to (263852) and (336811).

Notes of Decisions*Treatment Services*

Where the estate of a pretrial detainee who committed suicide while he was detained brought a civil rights action against jail officials for failure to provide treatment services required by Pennsylvania law claiming failure “constituted deliberate indifference” the Court held such claim was precluded due to the difference of medical opinion concerning the detainee’s suicidal intent. *Herman v. Clearfield County*, 836 F. Supp. 1178 (1993); affirmed 30 F. Supp. 1486 (3d. Cir. (Pa.) 1994).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§ 95.244. [Reserved].**Source**

The provisions of this § 95.244 readopted May 18, 1979, 9 Pa.B. 1619; reserved October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (336811) to (336812).

§ 95.245. Incoming publications.

The following are the minimum requirements applicable to incoming publications:

- (1) Written local policy must specify the procedure for receiving, reviewing and allowing publications into the prison, including the searching of incoming publications for contraband.
- (2) Written local policy must establish the criteria for prohibiting a publication from coming into the prison, including the defining of obscene material. Incoming publications may be read and examined by the prison administrator or a designee. The criteria for prohibiting a publication from coming into the prison must be related to maintaining the order, security or safety of the prison or the exclusion of obscene material.
- (3) Written local policy must identify the procedure for allowing access to both recreational and instructional reading materials for use by inmates.

Authority

The provisions of this § 95.245 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.245 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial page (336812).

§ 95.246. Investigations; deaths and sexual assaults/allegations.

The following are the minimum requirements for investigation of:

- (1) *Deaths*. Written local policy must provide for the procedure to be followed in the event of the death of an inmate, prison employe, volunteer, contractor or visitor. The policy must provide for the following:

(i) Immediate notification of the coroner and the appropriate law enforcement agency by the prison administrator or a designee when an inmate dies within the prison, on prison property or while in the custody of prison staff.

(ii) Immediate notification of the coroner and the appropriate law enforcement agency by the prison administrator or a designee when a prison employe, volunteer, contractor or visitor dies within the prison, on prison property or while in the performance of official duties.

(iii) Identification of the coroner and the law enforcement agency to be notified.

(iv) Identification of the staff person responsible for coordinating investigative efforts with the coroner and the law enforcement agency and completing and submitting a report to the governing county prison authority.

(v) Documentation and reporting of any death to the Department and the United States Department of Justice.

(2) *Sexual assaults/allegations.* Written local policy must describe the procedure to be followed in the event of an allegation of a sexual assault involving an inmate, prison employe, volunteer, contractor or visitor. The policy must provide for the following:

(i) The prison administrator or a designee shall immediately direct an investigation of all allegations of sexual assault occurring within the prison, on prison property or while an inmate was in the custody of prison staff.

(ii) The designated law enforcement agency shall be notified and an investigation requested when a sexual assault occurs within the prison, on prison property or while in the custody of prison staff.

(iii) Identification of the law enforcement agency to be notified.

(iv) Identification of the staff person responsible for contacting the law enforcement agency, coordinating investigative efforts with that agency and completing and submitting a report to the governing county prison authority.

(v) Documentation and reporting of a sexual assault or allegation of sexual assault to the Department and the United States Department of Justice.

Authority

The provisions of this § 95.246 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.246 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (336812) and (263855).

§ 95.247. Notification.

The following are the minimum requirements applicable to notification:

(1) Written local policy must provide for prompt notification by prison authorities of an inmate's listed emergency contact in the event of the inmate's death, serious illness or serious injury. The policy must also provide for prompt notification to an inmate in the event of the death, serious illness or serious injury to the inmate's immediate family member.

(2) Written local policy, in accordance with sections 201 and 214 of the Crime Victims Act (18 P. S. §§ 11.201 and 11.214), must establish a victim notification procedure. The procedure must identify how victims register for notification, the circumstances for which victims are notified, how this information will be maintained in a confidential manner and who is responsible for notifying the victim. If the inmate is a State prisoner on writ for local court proceedings, the county prison shall immediately contact the State correctional institution from which the inmate was transferred when circumstances exist requiring notification of the victim. In this instance, disclosure to the victim will then be handled by the Department.

Authority

The provisions of this § 95.247 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.247 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial page (263855).

§ 95.248. Sanitation, maintenance and safety.

The following are the minimum requirements applicable to sanitation, maintenance and safety:

(1) Written local policy must require the prison to adhere to applicable Department of Labor and Industry regulations regarding sanitation, maintenance and safety or any applicable local code inspections.

(2) Written local policy must identify a sanitation and housekeeping plan. This plan must address all prison areas and provide for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and inmates. Inmates shall be required to maintain their immediate living area and adjacent general space in a sanitary condition. The control of vermin and pests shall be addressed on a monthly basis by a qualified person, with documentation of the application of any pest or vermin control treatment. A sanitation inspection shall be conducted of all prison areas on a monthly basis to

determine the health and safety status of the prison and the need for action. The results of this inspection shall be documented and submitted to the prison administrator or a designee.

(3) Written local policy must identify a preventive maintenance program for the physical plant of the prison. This program must ensure the regular care and inspection of equipment that is essential for safe and efficient operation. A qualified person shall conduct an inspection of all equipment, at least semiannually, as specified by the manufacturer, to determine condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or a designee.

(4) Written local policy must provide for the inventory, control, storage and clean-up of toxic, caustic and flammable substances. Written local policy must also specify an exposure control plan for governing the handling of blood-borne pathogens.

(5) Written local policy must require that prison operational support areas, to include laundry room, janitorial closets, mechanical room, electrical room, boiler room, maintenance room and storage room be maintained in a safe and clean condition at all times.

(6) Written local policy must require that the prison administrator maintain any required licenses or documentation of the prison's compliance with an applicable building code/life safety code. Current licenses or certificates of occupancy, or both, shall be available for inspection in the prison.

(7) Written local policy must require that the approved bed capacity be specified annually. The actual in-house population may not exceed the prison's approved bed capacity. The in-house population shall be calculated as the average daily inmate population for the 6 calendar months prior to the date of the prison inspection.

(8) Written local policy must require that an emergency power back-up system be available and in operational condition. This system shall be load tested at least on an annual basis, with this load test and the operating status of the system documented.

(9) Written local policy must identify a fire emergency/evacuation plan. This plan shall be reviewed annually by the prison administrator or a designee and identify an existing agreement with a responding fire department. Staff training for the implementation of this plan shall be provided on an annual basis. All areas of the prison shall be involved and participate in fire drill exercises at least once each year, with all fire drills being documented. Written local policy must also provide for a system of inspection, testing and certification by a qualified person of all fire/smoke detectors, fire/smoke alarms and panels and fire fighting equipment on an annual basis.

Authority

The provisions of this § 95.248 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and section 3(3) and (4) of the act of December 27, 1965 (P. L. 1237, No. 502) (61 P. S. § 460.3(3) and (4)).

Source

The provisions of this § 95.248 readopted May 18, 1979, 9 Pa.B. 1619; amended October 10, 2008, effective October 13, 2009, 38 Pa.B. 5627. Immediately preceding text appears at serial pages (263855) to (263856).

Notes of Decisions

The provisions of 37 Pa. Code § 95.248 (relating to sanitation and safety) were promulgated under the Fire and Panic Act (35 P. S. §§ 1221—1235), and structures built before passage of the act are subject to the act and to this section. *Padgett v. Stein*, 406 F. Supp. 287 (M.D. Pa. 1975).

Cross References

This section cited in 37 Pa. Code § 95.220b (relating to scope).

§§ 95.301—95.303. [Reserved].**Source**

The provisions of these sections §§ 95.301—95.303 adopted May 31, 1974, effective June 1, 1974, 4 Pa.B. 1084; reserved February 17, 1984, effective February 18, 1984, 14 Pa.B. 534, unless otherwise noted. Immediately preceding text appears at serial pages (49243), (49262) to (49263) and (16856) to (16857).

**Subchapter C. GRANTS TO COUNTIES FOR
PRISON CONSTRUCTION**

Sec.	
95.401.	Purpose.
95.402.	Applicability.
95.403.	Definitions.
95.404.	Grant application criteria.
95.405.	Processing grant applications.
95.406.	Guidelines for the evaluation of grant applications.
95.407.	Award of grant.
95.408.	Records and reports.

Authority

The provisions of this Subchapter C issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and the Prison Facilities Improvement Act (61 P. S. §§ 390.101—390.1303), unless otherwise noted.

Source

The provisions of this Subchapter C, adopted November 15, 1991, effective November 16, 1991, 21 Pa.B. 5338, unless otherwise noted.

§ 95.401. Purpose.

The purpose of this chapter is to provide an equitable and thorough process of reviewing applications for grants provided for in the act. Criteria for review are given to allow the applicant the best possible opportunity to be successful in achieving a grant award.

§ 95.402. Applicability.

This chapter sets out policy and procedure for providing grants to counties for the repair, expansion, construction, reconstruction, rehabilitation, improvement of local county correctional facilities or multicounty regional prison facilities or the purchase of electronic monitoring equipment for alternative sentencing programs. This chapter applies to grant applications submitted by counties to the Department for funding under the act.

§ 95.403. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Prison Facilities Improvement Act (61 P. S. §§ 390.101—390.1303).

Application for completed construction—The term includes an application for a grant for work completed 5 years before the date of the grant application.

Application for funds—An application for funding for construction occurring after December 21, 1989 and for work begun 5 years prior to the date the county submitted a letter to the Department indicating an intent to apply for grant funds.

Applicant—A county or multicounty regional authority.

Construction—The preparation of drawings and specifications for facilities; erecting, building, altering, demolishing, remodeling, improving or extending the facilities; and the inspection and supervision of the construction of the facilities. The term does not include an interest in land.

Department—The Department of Corrections of the Commonwealth.

Expansion of a prison facility—The construction or renovation of a local correctional facility that increases available bed space. The term includes improving support facilities that directly relate to an increase in the number of inmates that may be housed.

Grant agreement—A grant application signed by county officials who are empowered to legally and financially obligate the county to a contractual relationship between the county and the Commonwealth, which when executed obligates the county and its officials to comply with this chapter and representations made in the application.

Local correctional facility or prison facility—A jail, prison or detention facility operated by a county or jointly by more than one county and used for the

confinement of persons for safe custody. The term does not include a facility used for the detention or confinement of juveniles.

Matching funds—Funds that are generated by the county government either through taxes or the sale of municipal matching funds bonds, or county funds expended or committed for the development of an Intermediate Punishment Plan and the operation of an Intermediate Punishment Program under the act. The term does not include funds received from the State or Federal governments through subsidy, grants or entitlement.

Cross References

This section cited in 37 Pa. Code § 95.404 (relating to grant application criteria).

§ 95.404. Grant application criteria.

The three categories of grants are described as follows:

(1) *Past work*. A grant is available to a county which has completed an expansion of its prison facilities within 5 years of the date of the grant application as defined by section 714(4) of the act (61 P. S. § 390.714(4)). An application for these funds shall be received by the Department from September 1, 1991 to December 31, 1991. These grants will not exceed \$1 million, and the grants shall be matched by funding in a like amount by the county from county funds. A grant will not be awarded until the applicant submits an intermediate punishment plan to the Commission on Crime and Delinquency, as required by the County Intermediate Punishment Act (61 P. S. §§ 1101—1114). An application for a grant shall be divided into individual sections, providing the following information, and in the following order:

(i) *Description of project*. A description of the county correctional system including: existing community corrections, diversion or related programs, age of facilities, staffing of facilities, court orders that were filed before July 1, 1990 against the county concerning the correctional facility or the conditions of confinement. The description shall include the rated capacity of the facilities as of July 1, 1990, and how the rated capacity is determined. Priority will be given to an applicant which was at or exceeding 115% of rated capacity as of July 1, 1990.

(ii) *Amount of grant*. The amount of the grant being requested.

(iii) *Amount of previously expended funds*. The amount of funds expended by the applicant for the repair, expansion, construction, reconstruction, rehabilitation and improvement of local correctional facilities and the source of the funds (Federal, State, county or other), to include a detailed description of the capital expenditures.

(iv) *Other*. Other information the applicant wishes to provide.

(2) *Future work*. Grants are available for the repair, expansion, construction, reconstruction, rehabilitation or improvement of county correctional facilities and the purchase of electronic monitoring equipment begun after Decem-

ber 21, 1989. An application for these grants shall consist of individual sections, providing the following information, and in the following order:

(i) *County correctional system.* A description of the county correctional system, including age of facilities, court orders that were filed before July 1, 1990, staffing of facilities and rated capacity of the facilities and how the rated capacity is determined.

(ii) *Problem.* A description of the problem that the grant will address.

(iii) *Solution.* A description of the proposed solution to the problem. The relationship of the solution to the problem identified for which funds are requested shall be included in this section.

(iv) *Measurement of success.* A description of how the success of the proposed solution may be measured.

(v) *Previous efforts.* Previous efforts to address the problem and the success. This shall include a description of programs intended to or having the effect of reducing the need for construction or expansion of the county correctional facility, such as county earned time, work release, and the like.

(vi) *Grant amount requested.* The amount of the grant being requested.

(vii) *Inmate population.* The facility population as of July 1, 1990.

(viii) *Funds expended.* The amount of funds expended, or to be expended by the applicant for the repair, expansion, construction, reconstruction, rehabilitation and improvement of local correctional facilities for 3 years prior to the application. The source of the funds (Federal, State, county or other) to be expended shall be provided in the form of a cost plan that clearly specifies the anticipated costs of the project. See “matching funds” in § 95.403 (relating to definitions). If the county plans to utilize the funds expended in the establishment or creation of a county Intermediate Punishment Plan, a copy of the Intermediate Plan shall be attached to the grant application.

(ix) *Other.* Other information the applicant wishes to provide.

(3) *Combination of past and future work.* Grants are available for prison expansion that began before December 21, 1989 and was not completed until after December 21, 1989. These grants will combine the statutory limitation of \$1 million and equal contribution for work and costs initiated before December 21, 1989, and the statutory grant limitation for reimbursement in a like amount of the total grant awarded for expansion or improvement for work completed after December 21, 1989. Applications for the grants shall consist of individual sections, providing the following information:

(i) A description of the project.

(ii) The amount of previously expended funds.

(iii) The county correctional system.

(iv) The problem.

(v) The measurement of success.

(vi) Previous efforts.

(vii) The grant amount requested.

(viii) The inmate population.

(ix) Other information.

(4) *Submission to Commission on Crime and Delinquency.* A grant will not be awarded to an applicant until the applicant complies with the statutory requirement of submitting an Intermediate Punishment Plan to the Commission on Crime and Delinquency as required by the County Intermediate Punishment Act (61 P. S. §§ 1101—1114).

§ 95.405. Processing grant applications.

Upon receiving a grant application, the Department will review the information for completeness and accuracy. If the information is found to be incomplete or inaccurate, additional data may be requested and final processing of the application will be discontinued until the requested data is supplied by the applicant. The Department may terminate the processing of an incomplete or inaccurate application if additional data is not supplied to the Department within 30 days after a written request.

§ 95.406. Guidelines for the evaluation of grant applications.

The Commissioner of the Department will award grants based on a consideration of the grant application guidelines. The decision will be based on, and keeping with the legislative intent of the act.

§ 95.407. Award of grant.

(a) Grants for completed construction will be awarded first and will not exceed \$1 million per applicant. The date of the grant application may be fixed by submitting a letter to the Department expressing interest in receiving a grant.

(b) A grant approved by the Department shall be matched by funding in a like amount by the county from county funds. If Federal funding becomes available for the construction of local correctional facilities, both the county shares shall be reduced in like proportion. Prior to receiving the grant proceeds, the applicant shall give evidence that matching funds—excluding in-kind services, land or equipment—for the project were utilized for completed construction or are available and committed for projects begun after December 21, 1989.

(c) The award of the grant is contingent upon the applicant's signing of a grant agreement provided by the Department and funds being available in the Local Criminal Justice Fund as defined in section 708 of the act (61 P. S. § 390.708).

(d) The Department's financial obligation is limited to the amount of the grant. The Department is not responsible for funding cost overruns incurred by the applicant.

§ 95.408. Records and reports.

(a) The applicant shall maintain books, records and other evidence pertinent to costs incurred in connection with the grant project. The books and records shall be maintained according to generally accepted accounting principles.

(b) Financial records, supporting documents, statistical records and other records pertaining to the grant project shall be retained by the applicant for 3 years following the date payment is made. The records and documents shall be available for inspection or audit by the Commonwealth, its agencies and instrumentalities.

(c) The applicant shall provide the Department reports on the progress of the grant project as requested, at least annually.

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