



# Virginia Department of Corrections

## Human Resources

### Operating Procedure 135.2

#### *Rules of Conduct Governing Employees Relationships with Offenders*

#### **Authority:**

Directive 135, *DOC Expectations of Employees*

**Effective Date:** October 1, 2019

**Amended:** 1/1/20, 11/2/20

#### **Supersedes:**

Operating Procedure 135.2, November 1, 2016

**Access:**  Public  Restricted

Incarcerated Offender

#### **ACA/PREA Standards:**

5-ACI-1C-09, 5-ACI-3D-08, 5-ACI-3D-14; 4-4056, 4-4281, 4-4281-6; 4-ACRS-6A-05; 4-APPFS-3C-02, 4-APPFS-3E-05; 2-CO-1C-11; §115.11, §115.67, §115.72, §115.76, §115.77, §115.211, §115.267, §115.272, §115.276, §115.277

|                       |   |                               |         |
|-----------------------|---|-------------------------------|---------|
| <b>Content Owner:</b> | Brittany H. Crane<br>Deputy Human Resource Director     | <b>Documentation on File</b>  | 8/12/19 |
|                       |   | Signature                     | Date    |
| <b>Reviewer:</b>      | Lucinda Childs-White<br>Director of Human Resources     | <b>Documentation on File</b>  | 8/12/19 |
|                       |   | Signature                     | Date    |
| <b>Signatory:</b>     | Joseph W. Walters<br>Deputy Director for Administration | <b>Signature Copy on File</b> | 8/16/19 |
|                       |   | Signature                     | Date    |

## REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

*The office of primary responsibility reviewed this operating procedure in November 2020 and necessary changes were made.*

*The content owner reviewed this operating procedure in September 2021 and determined that no changes are needed.*

## COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

## Table of Contents

|  |   |
|--|---|
| PURPOSE .....  | 3 |
| PROCEDURE.....   | 3 |
| I.    Applicability.....                                       | 3 |
| II.   Professional Conduct .....                               | 3 |
| III.  Sexual Misconduct.....                                   | 4 |
| IV.  Improprieties - Non-Professional Association .....        | 5 |
| V.   Employee and Supervisory Reporting Responsibilities ..... | 6 |
| DEFINITIONS OF TERMS USED IN THIS OPERATING PROCEDURE.....     | 7 |
| REFERENCES.....  | 7 |
| ATTACHMENTS .....  | 8 |
| FORM CITATIONS .....   | 8 |



## PURPOSE

This operating procedure establishes rules of conduct that employees will observe when interacting with offenders under the direct supervision of the Virginia Department of Corrections. The procedure also provides guidance to prevent the abuse of offenders at all DOC facilities.

## PROCEDURE

- I. Applicability
  - A. All persons who are paid by the Department of Corrections on an hourly, salaried, or contractual basis, or who are paid by another state agency for working in a position within a DOC Unit, and volunteers who provide services to offenders are expected to provide a positive role model for offenders and a safe, secure, and healing environment for employees and offenders by acting in accordance with this operating procedure.
  - B. The Organizational Unit Head will ensure compliance and enforcement of this operating procedure at the unit level.
  - C. Attachment 1 of this operating procedure, *Fraternization Awareness and Prevention*, should be provided to all new employees, volunteers, contract workers, and others who may have recurring contact with offenders.
- II. Professional Conduct
  - A. Employees of the DOC will exercise professional conduct when dealing with offenders to ensure the security and integrity of the correctional process and to promote a Healing Environment within the DOC. Employees are expected to model the Healing Environment in order to foster positive growth for staff and offenders and create a culture that supports re-entry and public safety.
  - B. Abuse of Employment Status - Employees will not use their official status as employees of the DOC as a means to establish social interactions or business relationships not directly related to DOC business. (4-APPFS-3C-02)
  - C. Vigilance
    1. Employees are expected to be alert to detect and prevent escapes from custody or supervision, or violations of DOC operating procedures.
    2. Observed incidents or suspicions of planned incidents must be reported to the employee's supervisor or the appropriate officer in accordance with established procedures.
  - D. Professional Appearance
    1. All employees should maintain a professional appearance and demeanor at all times and avoid actions or behaviors that could lead to the perception of fraternization or indicate an inappropriate relationship.
    2. See Attachment 1, *Fraternization Awareness & Prevention*, for examples of “red flags” or behaviors that could signal inappropriate boundaries or relationships between employees, inmates, probationers, and parolees.
  - E. Confidential Information
    1. Information pertaining to the record, offense, personal history, medical or mental health information, or private affairs of offenders is for official use only.
    2. Employees will seek to obtain such information only as needed for the performance of official DOC duties, will not access or discuss such information except as required in the performance of official duties, and will take necessary precautions to protect the security and confidentiality of offender records and information. (See Operating Procedures 050.1, *Offender Records Management*, and 310.2, *Information Technology Security*.)

#### F. Interactions

1. While performing their job duties, employees must model a professional, healing, and supportive relationship when interacting with persons under DOC supervision, which involves respecting the rights of offenders as individuals, acting in a trustworthy and responsible manner, helping and supporting offenders and other staff members to the extent possible and ensuring that the employee's conduct does not harm others.
2. Employees must work towards the goal of improved public safety and the successful transformation and reintegration of those entrusted to the Department's care, while maintaining a suitably professional detachment to ensure that personal and professional identities are not blurred.
3. Employees are encouraged to interact with offenders on an individual and professional level while maintaining and reinforcing appropriate professional boundaries to promote and accomplish DOC goals.

#### G. Interactions with co-workers who are ex-offenders

1. If the co-worker has been released from DOC custody or terminated from supervision, whichever occurs last, for more than 180 days, there are no restrictions on relationships with the individual that would not apply to all employees.
2. If the co-worker is known to be under DOC supervision or within 180 days following discharge from DOC custody or termination from supervision, whichever occurs last, interactions will be limited to appropriate professional boundaries and support as outlined below.
3. The same limitations apply to work release employees under the supervision of the General Services Unit at DOC Headquarters.
4. Professional relationships within appropriate boundaries may include:
  - a. Requests for assistance (such as needing an employment reference)
  - b. The offender reporting re-entry progress to the employee
  - c. Casual, unplanned meetings with the offender, close friends of the offender, or members of the offender's family that occur in public and where appropriate boundaries are maintained
  - d. Engaging in peer support activities such as going to an event or meeting
  - e. In all such situations, the employee must report such contact to their supervisor or Organizational Unit Head on the same or next business day.
5. If an employee does not know and reasonably should not have known that a co-worker is under DOC supervision or within 180 days following discharge from DOC custody or termination from supervision, whichever occurs last, the employee is not guilty of fraternization for relationships with the individual that would be appropriate for all employees.

#### H. Courtesy and Respect

1. At all times, employees should be respectful, polite, and courteous in their communication and interaction with offenders, as well as with citizens and other employees.
2. Such practices are primary factors in providing a Healing Environment for effectively engaging others, resolving issues, maintaining order, control, good discipline, and redirecting behavior to a more positive result.

#### I. Humane Treatment (5-ACI-3D-08; 4-4281; 2-CI-5A-2)

1. Offenders must be treated humanely.
2. Abuse or any form of corporal punishment or hazing is prohibited.
3. No profane, demeaning, indecent, insulting, threatening, harassing, or discriminatory conduct (verbal, written or physical) will be tolerated, including but not limited to abuses of authority, and derogatory language or actions that is based on race, sex, color, national origin, religion, sexual orientation, gender



identity, age, political affiliation, veteran status, or disability.

### III. Sexual Misconduct

- A. The Department of Corrections has zero tolerance for all forms of sexual abuse and sexual harassment. See Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*, for additional information on preventing, detecting, and responding to such conduct. (§115.11[a], §115.211[a])
- B. Any behavior of a sexual nature between employees, contract employees, or volunteers and offenders, offender's immediate family, or a close friend of the offender is prohibited. (5-ACI-1C-09; 5-ACI-3D-14; 4-4056, 4-4281-6; 4-ACRS-6A-05, 4-APPFS-3C-02; 4-APPFS-3E-05; 2-CO-1C-11) Behavior of a sexual nature includes sexual abuse, sexual assault, sexual harassment, physical conduct of a sexual nature, sexual obscenity, and conversations or correspondence of an emotional, romantic, or intimate nature.
1. Sexual misconduct will be treated as a Group III offense subject to disciplinary sanctions up to and including termination under Operating Procedure 135.1, *Standards of Conduct*. (§115.76[a], §115.276[a])
  2. Termination will be the presumptive disciplinary sanction for employees who have engaged in sexual abuse. (§115.76[b], §115.276[b])
  3. Disciplinary sanctions for violations of DOC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) will be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. (§115.76[c], §115.276[c])
  4. All terminations for violations of DOC sexual abuse or sexual harassment policies, or resignations by staff that would have been terminated if not for their resignation, must be reported to any relevant licensing bodies by the DOC PREA Coordinator, and to law enforcement agencies, unless the activity was clearly not criminal. (§115.76[d], §115.276[d])
  5. Any contractor or volunteer who engages in sexual abuse of offenders must be prohibited from contact with offenders and must be reported to any relevant licensing bodies by the DOC PREA Coordinator, and to law enforcement agencies, unless the activity was clearly not criminal. (§115.77[a], §115.277[a]) The DOC will take appropriate remedial measures, and will consider whether to prohibit further contact with offenders, in the case of any other violation of DOC sexual abuse or sexual harassment policies by a contractor or volunteer. (§115.77[b], §115.277[b])
  6. A preponderance of the evidence will be adequate in determining whether allegations of sexual abuse or sexual harassment are substantiated. (§115.72, §115.272)
- C. Carnal knowledge without the use of force, threat, or intimidation of an offender by an employee, including a wage employee, contract employee, or volunteer in any relationship with an offender is a Class 6 felony per COV §18.2-64.2, *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender; penalty*. (5-ACI-3D-14; 4-4281-6)
- D. Sexual battery of an offender by an employee, contract employee, or volunteer in any relationship with an offender is a Class 1 misdemeanor per COV §18.2-67.4, *Sexual battery*. (5-ACI-3D-14, 4-4281-6)

### IV. Improprieties - Non-Professional Association

#### A. Fraternalization

1. Except for preexisting relationships (see below), fraternization or non-professional relationships between employees and offenders are prohibited, including when the offender is within 180 days following discharge from DOC custody or termination from supervision, whichever occurs last.
2. This action should normally be treated as a Group III offense under Operating Procedure 135.1, *Standards of Conduct*, unless surrounding circumstances and mitigating factors are present that



- warrant a reduction in the disciplinary action.
- a. Professional relationships with appropriate boundaries may exist within this timeframe such as:
    - i. Calls for assistance (such as needing a reference)
    - ii. The offender reporting re-entry progress to the employee
    - iii. Incidental encounters between employees and offenders or members of the offender's families that occur in a public setting where professional boundaries are maintained
    - iv. Engage in activities such as going to an event or meeting, directly related to the successful reentry of the offender
  - b. In all such situations, the employee must report such contact to their supervisor or Organizational Unit Head on the same or next business day.
- B. Exception - Any family relationship or pre-existing non-professional relationship (established friendship, prior working relationship, neighbor, etc.) between employees and offenders, including when the offender is within 180 days following their discharge from DOC custody or termination from supervision, whichever occurs last, must be reported to the Organizational Unit Head.
1. In consultation with the Regional Operations Chief, Chief of Corrections Operations, or appropriate Deputy Director, a decision will be made regarding future contact between the employee and the offender, the offender's family, and/or close friends of the offender.
  2. The Regional Operations Chief, Chief of Corrections Operations, or appropriate Deputy Director has final authority in these matters.
  3. The relationship and guidance on future contacts must be documented in *VACORIS Case Notes*.
- C. Improprieties - Associations between staff and offenders that may compromise security, or undermine the employee's ability to carry out their responsibilities may be treated as a Group III offense under Operating Procedure 135.1, *Standards of Conduct*.
- D. Special Privileges - Employees will not extend or promise an offender special privileges or favors not available to all persons similarly supervised, except as provided for through official DOC channels.
- E. Visitation
1. Non-job related visitations between employees and offenders, or families of offenders, are only permitted upon showing a good cause with the explicit written permission of the Regional Operations Chief of the region(s) involved (e.g., approved research as part of an educational program).
  2. The Chief of Corrections Operations or appropriate Deputy Director must also provide approval for employees in their units to participate in such visits.
  3. Communication and Contact - As long as the offender is under the custody, care, or supervision of the DOC, any unexpected, incidental, non-work related contact with offenders or their families should be reported to the Organizational Unit Head promptly and documented in *VACORIS Case Notes*, as necessary.
- F. Offender Abuse Prevention
1. Any employee who physically or verbally abuses any offender or a supervisor who observes the behavior and fails to hold an employee responsible may be subject to disciplinary action up to a Group III under Operating Procedure 135.1, *Standards of Conduct*. Unprofessional conduct, regardless of intent, that results in assault and/or battery of an offender must be reported immediately to the Organizational Unit Head or Administrative Duty Officer.
  2. No one will cause or permit any offender to perform personal services for staff or any individual. Offenders may be required to clean and provide normal sanitary functions within the facility as a function of their assigned job. Offenders will not maintain or repair any employee's personal property, unless as a part of a program or activity that is otherwise approved by the DOC.
  3. Physical contact with offenders must be conducted in a professional manner using the minimum



amount of force necessary to provide appropriate apprehension, intervention, and control as needed to protect the offender, staff, the general public, and to maintain a safe and secure environment.

#### V. Employee and Supervisory Reporting Responsibilities

- A. Failure to comply with the reporting requirements of this operating procedure will be considered a violation of Operating Procedure 135.1, *Employee Standards of Conduct*, and may be subject to disciplinary action up to and including termination.
- B. Employee Responsibilities - In addition to complying with the above procedures, employees have a continuing affirmative duty to disclose to their supervisors or other management officials any staff or offender boundary violations and any conduct that violates this procedure or behavior that is inappropriate or compromises safety of staff, offenders, or the community. (4-APPFS-3E-05)
- C. Supervisory Responsibilities - Supervisors must notify the unit PREA Compliance Manager and ensure that all reports of violation of this operating procedure are forwarded to the Organizational Unit Head for investigation.
- D. The Organizational Unit Head will ensure that all allegations of staff sexual misconduct are reported to the Special Investigations Unit who will review all allegations of staff sexual misconduct and investigate as appropriate.
- E. All offenders and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations will be protected from retaliation by other offenders or staff. (§115.67[a, c], §115.267[a, c])
  1. The Organizational Unit Head will designate appropriate staff to monitor the conduct and treatment of offenders or staff who reported or cooperated with an investigation into sexual abuse or sexual harassment.
    - a. Designated staff will monitor for retaliation at least 90 days following the report to determine if there are changes that may suggest possible retaliation by offenders or staff.
    - b. If the initial monitoring indicates a continuing need, designated staff will continue monitoring beyond 90 days and notify the unit PREA Compliance Manager.
  2. Any employee or supervisor who witnesses or becomes aware of retaliation must immediately report the incident to their supervisor, the officer in charge, or the Organizational Unit Head, such incidents must be investigated and reported to the unit PREA Compliance Manager.

### DEFINITIONS OF TERMS USED IN THIS OPERATING PROCEDURE

**Abuse** - The improper use or treatment of an individual that directly or indirectly affects an individual negatively; abuse may include, but is not limited to, any improper intentional act that causes physical, mental, or emotional injury to an individual. Mental or emotional injury may be inferred by the nature and circumstances of the act.

**Fraternalization** - Employee association with offenders, their family members, or close friends of offenders, outside of employee job functions, that extends to unacceptable, unprofessional, and prohibited behavior; examples include non-work related visits between offenders and employees, non-work related relationships with family members or close friends of offenders, connections on social media, discussing employee personal matters (marriage, children, work, etc.) with offenders, and engaging in romantic or sexual relationships with offenders.

**Hazing** - Oppression, punishment or harassment by forcing or requiring performance of unnecessary work or disciplining by means of horseplay, practical jokes and tricks, often in the nature of humiliating or painful ordeals (2-CI-5A-2)

**Healing Environment** - A work environment purposefully created by the way we work together and treat each other, encouraging all to use their initiative to make positive, progressive changes to improve lives. It is safe, respectful, and ethical where people are both supported and challenged to be accountable for their actions.

**Offender** - An inmate, probationer, parolee, post release supervisee, or other person placed under the supervision

(conditional release) or investigation of the Department of Corrections

**Sexual Misconduct** - Any behavior or act of a sexual nature directed toward an offender by an employee, volunteer, visitor, contractor, or agency representative; this includes but is not limited to acts or attempts to commit such acts of sexual assault, sexual abuse, sexual harassment, sexual contact, conduct of a sexual nature or implication, obscenity, and unreasonable invasion of privacy. Sexual misconduct also includes but is not limited to conversations or correspondence that suggests a sexual relationship between an offender and any party mentioned above.

**Work Release Employee** - A person employed by the Department of Corrections as either a wage employee or through a staffing agency while incarcerated, including home electronic monitoring, in a Virginia Department of Corrections or local jail facility

## REFERENCES

COV §18.2-64.2. *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender; penalty.*

COV §18.2-67.4. *Sexual battery.*

Operating Procedure 038.3, *Prison Rape Elimination Act (PREA)*

Operating Procedure 050.1, *Offender Records Management*

Operating Procedure 135.1, *Standards of Conduct*

Operating Procedure 310.2, *Information Technology Security*

## ATTACHMENTS

Attachment 1, *Fraternization Awareness and Prevention*

## FORM CITATIONS

None

