

Notice of Proposed Rule

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-501.401 Admissible Reading Material

PURPOSE AND EFFECT: The rule is being modified to provide clarity on rejections of publications sent to inmates due to advertisements within the publication, to update a staff job title, and to correct several formatting errors.

SUMMARY: The proposed rule amendments removes rule language allowing publications containing advertisements otherwise prohibited by rule in instances where the advertisements are not the focus of the publication or prominent or prevalent throughout the publication. Additionally, the changes update the title of the Bureau Chief of Education and correct several formatting errors.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department used an itemized checklist to conduct an economic analysis and determine if there is an adverse impact or regulatory cost associated with this rule that exceeds the criteria. Upon review of the proposed changes to the rule, the Department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in s. 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09, 944.11, F.S.

LAW IMPLEMENTED: 944.11, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Lauren Sanchez, Paralegal Specialist, 501 S. Calhoun Street, Tallahassee, FL 32399 (850)717-3610, lauren.sanchez@fdc.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Office of the General Counsel, Attn. FDC Rule Correspondence, 501 South Calhoun Street, Tallahassee, Florida 32399, FDCRuleCorrespondence@fdc.myflorida.com.

THE TEXT OF THE PROPOSED RULE IS:

33-501.401 Admissible Reading Material

(1) through (14) No change.

(15) Rejection of Publications. An inmate can possess a publication that is not detrimental to the security, order, or disciplinary or rehabilitative interests of any institution of the Department or any privately-operated facility housing inmates committed to the custody of the Department. A publication will be rejected if:

(a) through (n) No change.

(o) The publication contains an advertisement promoting any of the following ~~where the advertisement is the focus of, rather than being incidental to, the publication, or the advertising is prominent or prevalent throughout the publication:~~

1. through 4. No change.

(p) No change.

(16) through (20) No Change.

(21) Inmate Grievance Appeals.

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(a) through (b) No Change.

~~(c)~~(b) When a publication is impounded or rejected pursuant to the criteria set forth in subsection (15) or (19) of this rule, an inmate must bypass the informal and formal institutional levels of review, and file a grievance directly with the Office of the Secretary as described in Rule 33-103.007, F.A.C.

1. through 6. No change.

(22) Literature Review Committee.

(a) A Literature Review Committee (LRC) will act as the final reviewing authority for appeals regarding publications rejected or impounded pursuant this rule. The committee will be composed of the following individuals:

1. Bureau Chief of Security Operations or his or her designee;
2. Bureau Chief of Policy Management and Inmate Appeals or his or her designee;
3. Bureau Chief of Education Programs or his or her designee.

(b) The Bureau Chief of Education Programs or his or her designee will serve as the chairperson of the LRC and will be responsible for coordinating all activities of the committee.

(c) Within 30 days of receipt of a Form DC5-101, Notice of Rejection or Impoundment of Publications, from an institution or facility or receipt of an inmate grievance appeal forwarded by the Bureau of Inmate Grievance Appeals, the Bureau Chief of Education Programs or his or her designee will schedule a meeting of the LRC to review the decision to reject or impound a publication or the appeal. The committee will consider the appeal (if filed), the rule authority and reasons for the rejection or impoundment cited in Form DC5-101, the portions of the publication that have been cited as cause for the rejection or impoundment, and any other relevant material relating to the decision to reject or impound the publication or the appeal. The committee will affirm or overturn the decision to reject or impound the publication or approve or deny the appeal based upon the criteria set forth in this rule. Decisions of the committee will be by majority vote. Except as otherwise provided in this rule, the decision of the committee is final.

(d) through (f) No change.

(23) No change.

(24) Review by the LRC

(a) through (b) No change.

(c) The library services administrator will forward all information submitted by the publisher to the LRC for review at the next regularly scheduled LRC meeting. The Bureau Chief of Education Programs or his or her designee will provide the publisher written notification of the LRC's decision. The decision will also be communicated to all correctional institutions and facilities. A publisher may request reconsideration of a publication pursuant to subparagraph (24)(a)1. at any time.

(25) Special Meeting of the LRC.

(a) through (c) No change.

(d) The library services administrator will forward all information submitted by the publisher to the Bureau Chief of Education Programs who will schedule a special meeting of the LRC to consider the request.

(e) through (f) No change.

(g) The Bureau Chief of Education Programs or his or her designee will provide the publisher written notification of the LRC's decision. The decision will also be communicated to all correctional institutions and facilities.

~~(h)~~(f) If a publication is rejected at a special meeting of the LRC, the publisher may not request reconsideration at a special meeting of the LRC for a period of five calendar years from the date of the rejection.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 944.11 FS. History—New 10-8-76, Amended 3-3-81, 9-24-81, Formerly 33-3.12, Amended 6-9-87, 3-11-91, 12-17-91, 3-30-94, 11-2-94, 5-10-98, 10-20-98, Formerly 33-3.012, Amended 3-21-00, 8-10-00, 10-13-02, 7-2-03, 12-30-04, 9-5-05, 8-1-06, 6-16-09, 11-22-10, 6-9-20, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patrick Mahoney, Director of Programs and Re-Entry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ricky D. Dixon, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2021

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 20, 2021