



*State of North Carolina
Department of Public Safety
Prisons*

Chapter: B
Section: .0300
Title: **Offender Conduct Rules**
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POLICY AND PROCEDURE

References 5th Edition Standards for Adult Correctional Institutions

Related ACA Standards 5-ACI-1F-05, 5-ACI-3A-08, 5-ACI-3C-06
5-ACI-3D-03, 5-ACI-3D-18, 5-ACI-7A-02

North Carolina General Statute 14-202.5, 14-258.1

Social Security Number Protection Act of 2010

.0301 GENERAL

The following rules govern the conduct of offenders under the custody of the Department of Public Safety:

- (a) Attitude Towards Officials. When in the presence of any state official or any member of the prison staff, offenders shall maintain an attitude of attention and respect.
- (b) Obedience to Orders. All offenders will obey promptly and properly any lawful order given them by members of the prison staff.
- (c) Work. *Any offender physically and mentally able to work may be assigned employment suitable to **their** capacity. Each offender will be expected to work diligently and conscientiously to perform the tasks assigned as well as **they** are able. Offenders will work steadily at the job they are assigned until ordered to cease by the official in charge. Offenders will not quit or leave their assignment or engage in any other activity unless granted permission to do so by the official in charge. If sick or unable to perform the work assigned, an offender will report the fact at once to the official in charge. Malingering, shirking, laziness, or carelessness will not be tolerated (5-ACI-7A-02).*
- (d) Care of Living quarters. Offenders will keep their living quarters in a neat, clean, and sanitary condition. All authorized clothing and personal effects will be neatly hung or stored in designated places, and no containers for personal effects will be permitted other than those approved in the offender's official record by the officer in charge.
- (e) Personal Cleanliness. *Offenders will observe the ordinary requirements of personal hygiene; bathe and shave as often as necessary, keep teeth clean, and hair neatly cut and properly groomed (5-ACI-3D-18).*
- (f) Clothing. Offenders will possess and wear prison clothing only for the grade in which they

are classified. Prison clothing will not be mutilated in any way and will be maintained in as presentable a condition as available facilities permit. Offenders are strictly forbidden to exchange articles of clothing or to possess unauthorized clothing.

- (1) Offenders will be required to cover themselves appropriately in accordance with local rules and requirements when not in the shower or not utilizing toilets and while in route to and from these areas.
 - (2) Offenders will not be supervised by officers of the opposite gender while offenders are showering or in the toilet area unless appropriate privacy screening is provided to obscure from view the offender's breasts, genitalia, and buttocks.
 - (3) Staff of the opposite gender shall be required to announce their presence when entering a housing area. Such announcement shall be made at a minimum of once upon the shift change by an "opposite gender" employee assigned to the housing area. This announcement shall be documented in the shift log. Any other opposite gender employee must announce when entering a housing area and document in the shift log.
- (g) Contraband. Except as specifically authorized for a proper purpose and under adequate supervision, no offender will have in **their** possession or under **their** control any weapon, instrument, or tool that could be used to affect an escape or to aid **them** in an assault or insurrection; any intoxicant or any controlled substance except as prescribed by a licensed physician; any obscene material; tobacco or any unauthorized article of property.
- (h) Bartering and Trading. Offenders will not barter or trade with each other nor with officials or employees, except as specifically authorized by law or regulation.
- (i) Misuse of Prison Supplies. Offenders will not waste, appropriate, or traffic in prison supplies. No food will be taken from the dining room, kitchen, or storerooms of any prison without proper authorization.
- (j) Security of the Facility. Offenders will not participate in activities that threaten the order and security of the facility. Such activities include but are not limited to escapes, riots, insurrections, work stoppages, and unauthorized group demonstrations.
- (k) Disorderly Conduct. Offenders will at all times behave in an orderly manner. Fighting, wrestling, or physical encounters of any kind other than those permitted by the authorized recreation program are prohibited. No loud or boisterous talking will be permitted. Booing, whistling, or shouting by individuals or groups is forbidden. Shouts of encouragement to participants in authorized athletic contests may be permitted. Belligerent, aggressive, threatening, or other conduct which might lead to violence will not be tolerated.
- (l) Agitating. Offenders will not agitate or provoke disturbances.
- (m) Night Rules. Offenders shall be required to be present in their assigned sleeping area when the lights are dimmed for the night. Offenders may be allowed to get up during the night as authorized by the special instructions of the officer in charge of the unit, or if the offender

- obtains permission from the staff member on duty in the sleeping quarters of the offender.
- (n) Sexual Misconduct. Committing, soliciting, or inciting others to commit a sexual act will be subject to disciplinary action.
 - (o) Health. Offenders will not engage in conduct which may be injurious to their health or the health of others, or disruptive to the health care delivery system. This includes, but is not limited to, self-inflicted injury, feigning physical or mental health illness for any purpose, participating in acts or possessing any instrument capable of spreading communicable diseases (e.g. tattooing instruments, needles etc.) misuse of medications, hygiene items, or any other health care devices or supplies.
 - (p) Honesty. Offenders will be honest and truthful. False reports, lying, stealing, or other dishonest acts may be subject to disciplinary action.
 - (q) ***Legal Assistance. Offenders are not permitted to assist each other with litigation or legal matters except for assigned law library clerks. Assigned law library clerks are not trained in the law and only provide assistance to those offenders who are unable to read and/or write. The Department of Public Safety also provides, through contractual services, licensed attorneys for this purpose (5-ACI-3D-03).***
 - (r) State and Federal Laws. Offenders will obey all of the laws of the State of North Carolina and the United States of America.
 - (s) Gambling. Offender gambling is prohibited. No offender is to have in their possession gambling paraphernalia.
 - (t) Bribes. Offenders may not offer, give, solicit, or accept a bribe or offer a bribe or offer to give or withhold anything to persuade staff to neglect duties or perform favors.
 - (u) Refusal to submit to test. Offenders may not refuse to submit to a drug test or breathalyzer test or interfere with the taking of such tests.
 - (v) Security Risk Group. Offenders may not participate in, or organize, whether individually or in concert with others, any gang or Security Risk Group. They may not participate in any behavior associated with a Security Risk Group, to include possession of Security Risk Group materials.
 - (w) ***No offender or group of offenders will be given the authority or control over other offenders (5-ACI-3A-08).***
 - (x) ***Mobile Telephone/Wireless Communication Device. Offenders shall not have access to or possess any mobile telephone/wireless communication device unless an offender is housed at a facility utilizing the Offender Tablet Programs and that offender is authorized to participate in that program, in which case the offender may access the Offender Tablet***

only. Violations will result in the offender being disciplined in accordance with Prisons policy B.0200, Disciplinary Procedures. In accordance with North Carolina General Statute 14-258.1, any offender who possesses a mobile telephone or other wireless communications device or a component of one of those devices unless authorized to do so in accordance with the Offender Tablet Program, is guilty of a Class H felony and may be charged as such (5-ACI-1F-05).

- (y) **Computers. Offenders shall not access any computer outside of their authorized work, vocational, or educational assignment except as approved by the Region Director or appropriate Division staff based on the offender's assignment unless that offender is housed at a facility utilizing the Offender Tablet Programs and is authorized to participate in that program, in which case the offender may access the Offender Tablet only (5-ACI-1F-05).**
- (1) **Offenders shall not access any computer (PC, Desktop, Laptop, Smartphone, PDA, etc.) which has any type of direct, outside communication capability; e.g. internet, email, instant message, etc. unless authorized by the appropriate review level (5-ACI-1F-05).**
- (A) Exceptions for offender access to the internet must be pre-approved by the Region Director or appropriate Division staff based on the offender's assignment. The Region Director has the discretion to authorize offender access to the internet to perform responsibilities assigned to them by their employer or instructor. Consideration for approval should be on a case-by-case basis, and a determination made as to the necessity of internet usage to complete work or school assignments.
- (B) The **Warden** should request from the prospective employer or instructor, a plan that outlines the supervision of access and restriction allowances for the offender to have internet access. This request will be forwarded to the Region Director for consideration.
- (C) Access to the internet is absolutely restricted to activities directly applicable to the completion of work or school assignments. These instructions should be provided to the offender upon notification that **they** are authorized internet access in accordance with these provisions.
- (D) The computer and internet used by the offender who has been granted the exception should be monitored on a routine basis to ensure the access is related to the activities approved.
- (E) **Offenders housed at facilities participating in the Offender Tablet Program will be authorized to utilize tablets for social and programmatic purposes and to communicate with approved persons via the approved software platform that the offender tablet supports.**

- (2) The establishment of an account, use, or participation by offenders in social networking systems (e.g. Facebook, Twitter, TikTok) is strictly prohibited. The establishment or maintenance of an account on behalf of an offender is strictly prohibited. Violations will be reported to the appropriate Social Media System's Security section for termination of user account as infringement of the SMS User Agreement and the offender disciplined in accordance with Prisons policy B.0200, Disciplinary Procedures. In accordance with North Carolina General Statute 14-202.5, any sex offender found accessing a social networking website that permits minor children to become members or to create or maintain a personal webpage on a social networking site may be charged with a Class I felony.
- (3) Offenders shall not access any computer that contains or is capable of accessing sensitive or confidential information, or that is connected to other computers containing sensitive or confidential information.
 - (A) An offender shall be prohibited from working on any task, prison work project, prison industry job, incentive wage, or work release assignment that requires them to have access to the personal Social Security numbers of other offenders, state employees, or the general public, and/or to be in proximity to said information where casual observance is possible.
 - (B) It is the responsibility of all Department of Public Safety employees to make certain that records containing personal data and specifically social security numbers be maintained to prevent access or casual observation by offenders. This includes both paper and electronic records including, but not limited to work time records, retirement forms, Beacon, earning deduction forms, and external inquiry forms that may use the Social Security number such as employment confirmation.
 - (C) As part of the orientation process, incentive wage/work release custodial agents should be made aware of this procedure as it relates to the Social Security Number Protection Act of 2010. DPS and Work Release employers shall establish protocols to adhere with this procedure.
- (4) Offenders shall not use or be informed of any computer password, except when issued by the supervising staff. The supervising staff, and not the offender, must always retain the ability to change the password.
- (5) No external communication capabilities; e.g., telephone lines with connectivity outside the offender facility, data lines, data punch panels, or telephone access punch panels, shall be permitted in any area where offenders are allowed to access computers
- (6) Offenders shall not have access to cds, flash drives, or any other electronic storage media, except within an area approved by the Warden. Offenders shall not access or

use any computer-based tool or program that is capable of destroying or corrupting stored data. Offenders shall not directly access or alter any computer's operating system.

- (7) Offenders shall not possess a computer as part of their personal property.
- (8) Offenders who have a record of computer fraud or abuse shall not have access to a computer.

.0302 OTHER RULES AND REGULATIONS

- (a) Crimes. In addition to being subject to prison rules and regulations and to the punishments therein provided, offenders are subject to the criminal laws of the State and are liable to all penalties there under. Included among offenses made criminal by law are: murder, manslaughter, assaults, kidnapping and taking hostages, arson, insurrection, escape, carrying concealed weapons, resisting officers, injuring or destroying public property, stealing, bribery, gambling, unlawful possession or use of narcotic drugs or implements, unlawful possession of intoxicants, crime against nature, conveying messages and weapons to or trading with convicts and other prisoners, subversive activities aimed at the overthrow of the government of the United States or of the State of North Carolina or any of its political subdivisions by force, or violence, or by any other lawful means, inflicting or assisting in infliction of self-injury resulting in incapacity for an offender to perform assigned duties.
- (b) ***Punishment for Crimes. Except as provided above, offenders who commit an offense made criminal by law will be taken to court for trial and punishment (5-ACI-3C-06).***
- (c) Disciplinary offense reports that result in a guilty disposition will be subject to an administrative fee in accordance with Prisons policy B .0200.

.0303 DISCIPLINARY PROCEDURES FOR LOCAL CONFINEMENT FACILITIES

- (a) General. Jails, district confinement facilities, "County Farms," or any other local confinement facility incarcerating offenders serving sentences are bound by the foregoing rules and procedures governing offender conduct and discipline. These procedures are promulgated and designed for Prisons, a large centrally controlled and uniform prison system. It is recognized that the many jails and other local confinement facilities throughout the state are not uniform in size, operation, staffing, or management. Nevertheless, local facilities shall adhere to the foregoing disciplinary procedure insofar as they can be applied in view of the staffing patterns and management systems that exist in each facility.
- (b) Definitions. Department of Public Safety job titles, Disciplinary Hearing Officer and other descriptive terms in the foregoing disciplinary procedures shall be modified as follows:
 - (1) Facility Head – will be interpreted as including the sheriff, administrator of a multi-county confinement facility, or their designee, or the Chief Jailer or similar appropriate

- individual.
- (2) Reviewing Authority – will be interpreted as including the Sheriff, administrator of a multi-county confinement facility, or their designee.
 - (3) State Correctional Service Members – will be interpreted as including members of jail and local confinement facilities' supervisory and operational staff.
 - (4) Disciplinary Hearing Officer – local confinement facilities shall only be required to establish one Disciplinary Hearing Officer to hear disciplinary offenses.
 - (5) Combined Records – will be interpreted as including the central record or file section of local confinement facilities.
 - (6) DC- 138 – will be interpreted as including the written record of disciplinary hearings kept by local confinement facilities.
- (c) In the local confinement facilities wherein the foregoing Prisons' rules and procedures governing offender conduct and discipline cannot be used in their entirety, deviations from such rules and procedures must be governed by the following principles:
- (1) Notice of Hearing. Offender must be given at least 24 hours advance written notice of the charges against **them** prior to the hearing.
 - (2) Opportunity to be Heard. Offenders must be allowed to present oral and documentary evidence in **their** defense **to be considered** at the hearing.
 - (3) Assistance of Staff Members. If the offender is illiterate, or the charges are complex, a staff member should be appointed to assist the accused both in preparing for the hearing and at the hearing, if requested. Offenders who are identified as mentally handicapped/developmentally disabled will be afforded a staff representative at each phase/level of the disciplinary process.
 - (4) Recorder. Local confinement facilities will establish a recorder to assist the hearing officer.
 - (5) Investigating Officer. Local confinement facilities will establish an Investigating Officer to investigate offender misconduct in accordance with the procedures specified in **Chapter B .0200**.
 - (6) Records. There must be a written statement by the Disciplinary Hearing Officer as to the evidence relied upon and reasons for the disciplinary sanctions imposed. Completed disciplinary packages (original copies of DC-138's) will be forwarded to the Chief Disciplinary Hearing Officer.

- (7) Administrative Review. Offender appeals will be forwarded to the Chief Disciplinary Hearing Officer for review to ensure that proper procedures were observed and the offender received a full and fair hearing.

- (d) Rules governing Conduct of Offenders. Local confinement facilities must follow the foregoing policy governing the conduct of offenders. Chapter B.0200 covers the punishment as authorized. Chapter B.0301 and B.0302 provide a more detailed description of the rules and regulations which govern the conduct of offenders committed to the Department of Public Safety. These sections shall not be deviated from, nor shall new offenses or punishments be added by local confinement authorities.



Commissioner of Prisons

December 14, 2021

Date

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