

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 423.00: RESTRICTIVE HOUSING

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423.01: Purpose

The purpose of 103 CMR 423.00 is to establish rules governing Restrictive Housing.

423.02: Authorization

103 CMR 423.00 is issued pursuant to M.G.L. c. 124, § 1(c) and (q); M.G.L. c. 127, §§ 39, 39A, 39B, 39C, 39E, 39F and 39H. 103 CMR 423.00 is not intended to confer any procedural or substantive rights not otherwise granted by state or federal law, or any private cause of action.

423.03: Cancellation

103 CMR 423.00 cancels all previous versions of 103 CMR 423.00, including all standard operating procedures appended thereto.

423.04: Applicability

103 CMR 423.00 governs non-disciplinary Restrictive Housing. 103 CMR 423.00 does not apply to:

- (a) the placement of inmates in the Department Disciplinary Unit (DDU);
- (b) the placement of inmates on disciplinary detention;
- (c) the placement of inmates in non-Restrictive Housing; and
- (d) Bridgewater State Hospital and the Bridgewater State Hospital state sentenced patient units at the Old Colony Correctional Center; and civilly committed persons at the Massachusetts Alcohol and Substance Abuse Treatment Center (MASAC). The placement of inmates in the DDU and the placement of inmates on disciplinary detention shall be governed by 103 CMR 430.00: *Inmate Discipline*. Placement Reviews of inmates serving DDU and/or Disciplinary Detention sanctions shall be governed by 103 CMR 430.00.

423.05: Access to 103 CMR 423.00

103 CMR 423.00 shall be maintained within the Department of Correction's central policy file, in each institution's central policy file, in each institution's inmate law library, and shall be made available to the public.

423.06: Definitions

Correctional Program Officer (CPO). The staff person at an institution who, when assigned duties required in 103 CMR 423.00, collects information obtained through inmate interviews and available casework records, and prepares a summary of this information for classification. A CPO is also responsible for monitoring an inmate's participation and compliance with a personalized program plan or program recommendations and facilitates reentry preparation.

Department Disciplinary Unit (DDU). A restricted area or areas designated by the Commissioner to which an inmate has received a recommended sanction by a Special Hearing Officer. For purposes of 103 CMR 423.00, the DDU is not a Restrictive Housing Unit. The DDU is disciplinary Restrictive Housing and is governed by 103 CMR 430.00: *Inmate Discipline*.

Director of Security. The individual responsible for the overall security within a correctional institution through formulation and enforcement of rules and regulations and by overseeing the performance of security staff.

Disciplinary Detention. The Restrictive Housing of an inmate who has been found guilty of a serious violation of 103 CMR 423.00. Such sanction shall not exceed 15 days for one offense and no more than 30 days for all violations arising out of the same or substantially connected incident(s), unless specifically authorized by the Commissioner. This status may be imposed only after complying with all provisions of 103 CMR 430.00: *Inmate Discipline*. Disciplinary detention does not refer to inmates sentenced to a DDU.

Disciplinary Restrictive Housing. A placement in Restrictive Housing in a state correctional facility for disciplinary purposes after a finding has been made that the inmate has committed a breach of discipline.

Exigent Circumstances. Circumstances that create an unacceptable risk to the safety of any person.

General Population. For purposes of 103 CMR 423.00, general population is defined as any housing area, other than a Restrictive Housing Unit (RHU), a Health Services Unit (HSU), a Department Segregation Unit (DSU), a DDU, a Secure Treatment Unit (STU), a Secure Adjustment Unit (SAU), or the Intensive Treatment Unit (ITU) at MCI-Framingham.

Inmate Management System (IMS). The Department of Correction's automated information system that provides processing, storage, and retrieval of inmate-related information needed by the Department.

Institution Duty Officer. A rotating staff person assigned specific institutional duties by the Superintendent.

Placement Review Committee. A multidisciplinary examination to determine whether Restrictive Housing continues to be necessary to reasonably manage risks of harm, notwithstanding any previous finding of a disciplinary breach, exigent circumstances, or other circumstances supporting a placement in Restrictive Housing.

Placement Review Group which shall include, but not be limited to, one member of the security staff, one member of the programming staff and one member of the mental health staff. This Committee may include the Superintendent, Deputy Superintendents, Director of Security, Director of Classification, Restrictive Housing Unit Captain, or their respective designees, and such other staff as deemed necessary to determine whether Restrictive Housing continues to be necessary to reasonably manage risks of harm, notwithstanding any previous finding of a disciplinary breach, exigent circumstances or other circumstances supporting a placement in Restrictive Housing.

Protective Custody/Special Housing Units. A form of separation from the general population for inmates requesting or requiring protection from other inmates for reasons of health or safety. The inmate's status is reviewed periodically in accordance with 103 DOC 422.00: *Department Protective Custody Units*, by the classification committee or designated group with the goal of terminating the separate housing assignment as soon as possible.

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Qualified Mental Health Professionals. Treatment providers who are psychiatrists, psychologists, psychiatric social workers, psychiatric nurses, and others who by virtue of their education, credentials and experience are permitted by law to evaluate and care for the mental health needs of patients.

Restrictive Housing. A placement that requires an inmate to be confined to a cell for at least 22 hours per day for the safe and secure operation of the facility. For purposes of 103 CMR 423.00, Restrictive Housing shall not include the following: any placement in a DDU as the result of a sanction imposed in accordance with 103 CMR 430.00: *Inmate Discipline*; any placement of an inmate on disciplinary detention as the result of a sanction imposed in accordance with 103 CMR 430.00; any placement ordered by a medical or mental health provider including, but not limited to, the placement of an inmate in a Health Services Unit; the placement of an inmate in a hospital; the placement of an inmate in a medical setting where treatment is being provided; or the placement of an inmate on a mental health watch.

Restrictive Housing Unit (RHU). A separate housing area from general population within institutions in which inmates may be confined to a cell for more than 22 hours per day where:

- (a) it has been determined that the inmate poses an unacceptable risk to the safety of others, of damage or destruction of property, or to the operation of a correctional facility;
- (b) the inmate requires protection from harm by others; and/or
- (c) the inmate is serving a disciplinary detention sanction.

Secure Adjustment Unit (SAU). A highly structured unit that is not Restrictive Housing and that provides access to cognitive behavioral treatment, education, programs, structured recreation, leisure time activities and mental health services for those inmates diverted from or released from Restrictive Housing.

Secure Treatment Unit (STU). A maximum security residential treatment program that is not Restrictive Housing and that is designed to provide an alternative to Restrictive Housing for inmates diagnosed with serious mental illness in accordance with clinical standards adopted by the Department of Correction.

Serious Mental Illness (SMI). A current or recent diagnosis by a Qualified Mental Health Professional of one or more of the following disorders described in the 5th edition of the *Diagnostic and Statistical Manual of Mental Disorders*:

- (a) schizophrenia and other psychotic disorders;
- (b) major depressive disorders;
- (c) all types of bipolar disorders;
- (d) a neurodevelopmental disorder, dementia or other cognitive disorder;
- (e) any disorder commonly characterized by breaks with reality or perceptions of reality;
- (f) all types of anxiety disorders;
- (g) trauma and stressor related disorders; or
- (h) severe personality disorders; or a finding by a Qualified Mental Health Professional that the inmate is at serious risk of substantially deteriorating mentally or emotionally while confined in Restrictive Housing, or already has so deteriorated while confined in Restrictive Housing, such that diversion or removal is deemed to be clinically appropriate by a Qualified Mental Health Professional.

Shift Commander. The officer designated by the Superintendent to be responsible for the supervision of all subordinate custodial staff and the care and custody of inmates during an assigned tour of duty.

Superintendent. The chief administrative officer of a correctional institution.

423.07: Establishment of Restrictive Housing Units

The Commissioner may designate an area or areas within maximum and medium security correctional institutions for Restrictive Housing consistent with the purposes set forth in 103 CMR 423.00.

423.08: Restrictive Housing Placement and Limitations on Placement in Restrictive Housing

The Superintendent of a state correctional facility or designee may authorize the confinement of an inmate in Restrictive Housing if the inmate's retention in general population poses an unacceptable risk:

- (a) to the safety of others;
- (b) of damage or destruction of property; or
- (c) to the operation of a correctional facility.

Before placement in Restrictive Housing, an inmate shall be screened by a Qualified Mental Health Professional to determine if the inmate has a serious mental illness (SMI) or to determine if Restrictive Housing is otherwise clinically contraindicated based on clinical standards adopted by the Department of Correction, with said standards adopted in consultation with the Department of Mental Health, and the Qualified Mental Health Professional's clinical judgment. Additional mental health procedures and treatment attendant to Restrictive Housing placement shall comport with the requirements set forth in 103 DOC 650: *Mental Health Services*. Additionally, prior to or immediately upon placement in Restrictive Housing, the inmate shall be screened by medical staff. Screening by medical staff shall include a determination of any medical contraindications to Restrictive Housing, including the existence of a permanent physical disability that precludes placement in Restrictive Housing, in which the inmate shall not be placed in Restrictive Housing. This screening shall be documented and placed in the inmate's medical record. This shall be documented on the RHU Inmate Information screen.

423.09: Restrictive Housing Reviews

The fact that an inmate is lesbian, gay, bisexual, transgender, queer or intersex or has a gender identity or expression or sexual orientation uncommon in general population shall not be grounds for placement in Restrictive Housing.

A pregnant inmate shall not be placed in Restrictive Housing.

In accordance with 103 DOC 422.05: *Transfer to Awaiting Action Status*, an inmate who is classified to a Department protective custody unit/Special Housing Unit may be placed in Restrictive Housing for reasons unrelated to protective custody needs for a period that shall not exceed 45 days, unless the Commissioner personally approves a further period or periods of not more than 15 days. In no event shall the total amount of time on Restrictive Housing status for such inmate exceed 90 days.

An inmate with an anticipated release date (release from the custody of the Department) of less than 120 days shall not be held in Restrictive Housing unless:

- (a) the placement in Restrictive Housing is limited to not more than five days; or
- (b) the inmate poses a substantial and immediate threat.

When an inmate in Restrictive Housing is expected to be released to the community within 40 days, any continued retention of the inmate in Restrictive Housing must be authorized by the Deputy Commissioner of Prisons or designee. When the inmate is released to the community directly from Restrictive Housing, the release shall be documented in an incident report indicating the approving authority for the continued placement in Restrictive Housing, the detailed release plan, and the required notifications provided in accordance with 103 DOC 493: *Reentry Policy*, 103 DOC 407: *Victim Service Unit*, and 103 DOC 404: *Inmate Release Policy*. The requirements of this paragraph do not apply to immediate court-ordered releases.

(1) All Inmates in Restrictive Housing. During normal business hours, the Shift Commander may order the immediate removal of an inmate from general population to Restrictive Housing. This action will be approved, denied, or modified within 24 hours by the Superintendent or designee. During non-business hours, the Shift Commander may order the removal of an inmate from general population to Restrictive Housing and the institution duty officer shall be the reviewing authority.

(a) Once an inmate is placed in Restrictive Housing, the inmate's status shall be reviewed by the Placement Review Committee every Monday, Wednesday and Friday. At each Placement Review, the Placement Review Committee shall determine whether:

1. the inmate's placement in Restrictive Housing is reasonably expected to last more than 60 days;
2. continued placement in Restrictive Housing is appropriate;
3. transfer to a Secure Adjustment Unit is appropriate; or
4. release from Restrictive Housing is appropriate.

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(b) At each Placement Review, the Placement Review Committee shall review the reason(s) for placement, threat to institutional security, pending disciplinary issues, disciplinary sanctions, classification issues, enemy situations, mental health issues, attitude toward authority, willingness and ability to live with others, and any other pertinent information. These reviews shall be documented in the Restrictive Housing review screen in IMS.

(c) After each Placement Review, the inmate shall be retained in Restrictive Housing only if the Superintendent or designee determines that the inmate poses an unacceptable risk:

1. to the safety of others;
2. of damage or destruction or property; or
3. to the operation of a correctional facility. In the case of inmates held in Restrictive Housing for personal safety needs, a certification by the Commissioner or designee shall be completed after each Placement Review.

(d) Upon a determination by the Placement Review Committee that the inmate's placement in Restrictive Housing is reasonably expected to last more than 60 days, within 15 days of such determination:

1. the inmate shall be served with written behavior standards and program participation goals that will increase the inmate's chances of a less restrictive placement upon next Placement Review; and
2. the inmate shall thereafter receive the reviews set forth in 103 CMR 423.09(3). An inmate's failure to meet some or all of the standards and goals shall not preclude an inmate's release from Restrictive Housing.

(e) The inmate shall receive periodic verbal notification as to his or her status or change in status. Said periodic verbal notification may be provided during rounds by the CPO or Deputy Superintendent of Reentry or designee.

(2) Inmates in Restrictive Housing Less than 30 Days.

(a) SMI Inmates. An inmate shall not be held in Restrictive Housing if the inmate has been determined to have a serious mental illness (SMI) or a finding has been made by a Qualified Mental Health Professional that Restrictive Housing is clinically contraindicated unless, no later than 72 hours after the Restrictive Housing placement or finding, the Commissioner or a designee certifies in writing:

1. the reason why the inmate may not be safely held in the general population;
2. that there is no available placement in an STU or SAU;
3. that efforts are being undertaken to find appropriate housing and the status of the efforts; and
4. the anticipated time frame for resolution.

A copy of the written certification shall be provided to the inmate.

Such inmates shall be reviewed thereafter by the Placement Review Committee at least every Monday, Wednesday and Friday.

(b) Inmates with Safety Needs. Upon verification that an inmate requires separation from general population to protect the inmate from harm by others, the inmate shall not be placed in Restrictive Housing, but shall be placed in a housing unit that provides approximately the same conditions, privileges, amenities and opportunities as in general population; provided however, that the inmate may be placed in Restrictive Housing for no more than 72 hours while suitable housing is located. An inmate shall not be held in Restrictive Housing to protect the inmate from harm by others for more than 72 hours, unless the Commissioner or a designee certifies in writing:

1. the reason why the inmate may not be safely held in the general population;
2. that there is no available placement in a unit comparable to general population;
3. that efforts are being undertaken to find appropriate housing and the status of the efforts; and
4. the anticipated time frame for resolution.

A copy of the written certification shall be provided to the inmate.

Such inmates shall be reviewed thereafter by the Placement Review Committee every Monday, Wednesday and Friday. The written certification by the Commissioner or designee, as described above, shall be completed after each Placement Review.

(c) Inmates Awaiting Adjudication of Disciplinary Charges. Inmates in Restrictive Housing who are awaiting the adjudication of disciplinary charges shall be reviewed by the Placement Review Committee every Monday, Wednesday and Friday.

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(d) Inmates in Restrictive Housing for Other Reasons. Inmates *e.g.*, pending investigation, pending classification, pending transfer, or refusing housing placement.

Inmates in Restrictive Housing for any other reason shall be reviewed by the Placement Review Committee every Monday, Wednesday and Friday.

(3) Inmates in Restrictive Housing 30 Days or More.

(a) 30-Day CPO Review. Every inmate in Restrictive Housing for 30 days or more shall be provided with the following review within 30 days of his or her Restrictive Housing placement. Each such inmate shall be provided:

1. 48 hours written notice prior to the review;
2. the opportunity to participate in the review in person;
3. a written statement as to the evidence relied on and the reasons for the placement decision if no placement change is ordered; and
4. written behavior standards and program participation goals that will increase the inmate's chances of a less restrictive placement upon the next Placement Review if no placement change was ordered.

Notice: The CPO shall provide the inmate with at least 48 hours advance written notice of the review. The notice shall state the basis upon which the inmate is housed in Restrictive Housing. The notice shall also state the nature of the threat requiring the Restrictive Housing placement. Notice shall be documented and may be waived by the inmate in writing.

CPO Review: The CPO shall conduct the review. The inmate shall be offered the opportunity to participate in the review in person. The review shall not be conducted at cell front. The inmate's failure to appear at the scheduled review shall be deemed a refusal to appear but shall not be held against the inmate. The inmate's refusal to attend the review shall be documented in IMS.

At the review, the inmate may offer a verbal and/or written statement and/or submit documentation to contest the rationale for his or her placement in Restrictive Housing. The inmate shall not be entitled to call witnesses or to representation by counsel. At the conclusion of the review, the CPO shall inform the inmate orally of the recommendation as to whether there is a need for the inmate's continued placement in Restrictive Housing.

Recommendation: Within two calendar days of the review, the CPO shall enter a recommendation in IMS as to whether the inmate should continue to be housed in Restrictive Housing. A copy of this recommendation shall be served on the inmate. The recommendation shall include, but not be limited to, a description of the underlying basis that led to the Restrictive Housing placement (*e.g.*, pending disciplinary hearing), and a determination whether the inmate's return to general population would pose an unacceptable risk to life, property, staff or other inmates, or to the security or orderly running of the institution. Unless an investigation or safety or security concerns could be compromised, the written recommendation shall generally describe the factual basis or bases of the recommendation, including a brief description of any evidence relied upon by the CPO. The written recommendation shall also document whether the inmate made or submitted any statement or documents, and, when appropriate, that any such statement and/or documents were considered.

Standards/Goals: Within two calendar days of the review, the inmate shall also be served with written notice of the behavioral standards and program participation goals that will increase the inmate's chances of a less restrictive placement upon next Placement Review. The written notice shall include a list of the specific programs being recommended for the inmate while in Restrictive Housing at that facility.

Inmate Appeal: If the inmate disagrees with the written recommendation of the CPO, the inmate may submit a written appeal within five business days of service of the written recommendation.

Final Decision: Within five calendar days after the close of the appeal period, *i.e.*, the last date upon which the inmate would be entitled to submit an appeal, the Superintendent or designee shall render the final decision in IMS and provide the inmate with such decision in writing. If it is determined that the inmate shall remain in Restrictive Housing, the written decision shall explain the reasons for the inmate's continued placement/status including, but not limited to, a description of the underlying basis that led to the Restrictive Housing placement (*e.g.*, pending disciplinary hearing) and an explanation why the inmate's return to general population would pose an unacceptable risk to life, property, staff or other inmates, or to the security or orderly running of the institution.

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Assistance: An inmate, either verbally or in writing, may seek an accommodation pursuant to 103 DOC 408: *Reasonable Accommodations for Inmates*, for the review and appeal. It shall be the inmate's responsibility to request such assistance within a reasonable time prior to the scheduled hearing or appeal. Whenever said request is made, the Institution's Americans with Disabilities Act (ADA) Coordinator shall determine what accommodations, if any, are reasonable pursuant to the procedures set forth in 103 DOC 408.

(b) Placement Reviews.

1. SMI Inmates. An inmate diagnosed with an SMI shall not be held in Restrictive Housing for more than 30 days unless the Placement Review Committee determines that the inmate poses an immediate and present danger to others or the safety of the institution.

Such inmates who are diagnosed with an SMI shall continue to be reviewed by the Placement Review Committee every Monday, Wednesday and Friday. At each Placement Review, the inmate shall be:

- a. provided with 24 hours written notice prior to each Placement Review;
- b. provided with the opportunity to participate in each review in writing;
- c. provided with a written statement as to the evidence relied on and the reasons for the placement decision if no placement change is ordered; and
- d. advised, in writing, as to behavior standards and program participation goals that will increase the inmate's chances of a less restrictive placement upon next Placement Review if no placement change was ordered.

These requirements apply regardless of the underlying reason for the Restrictive Housing placement (*e.g.*, if an inmate diagnosed with an SMI is awaiting adjudication of disciplinary charges, the aforementioned additional requirements shall be afforded for each Monday, Wednesday and Friday review, not for each 15-day review as would otherwise be required if the inmate were not SMI).

For each Placement Review scheduled to occur every 90 days after placement, the procedures set forth in 103 CMR 423.09(3)(c) shall be followed.

2. Inmates with Safety Needs. Upon verification that an inmate requires separation from general population to protect the inmate from harm by others, the inmate shall not be placed in Restrictive Housing, but shall be placed in a housing unit that provides approximately the same conditions, privileges, amenities and opportunities as in general population; provided, however, that the inmate may be placed in Restrictive Housing for no more than 72 hours while suitable housing is located. Such inmate shall not be held in Restrictive Housing to protect the inmate from harm by others for more than 72 hours unless the Commissioner or a designee certifies in writing:

- a. the reason why the inmate may not be safely held in the general population;
- b. that there is no available placement in a unit comparable to general population;
- c. that efforts are being undertaken to find appropriate housing and the status of the efforts; and
- d. the anticipated time frame for resolution.

A copy of the written certification shall be provided to the inmate.

Such inmates shall be reviewed thereafter by the Placement Review Committee every Monday, Wednesday and Friday. The written certification by the Commissioner or designee, as described in 103 CMR 423.09(3)(b)2.a. through d., shall be completed after each Placement Review.

Except as set forth in 103 CMR 423.09(3)(c), setting forth Placement Reviews that must occur within every 90 days of placement, for each Placement Review the inmate shall be:

- i. provided with 24 hours written notice prior to each Placement Review;
- ii. provided the opportunity to participate in each review in writing;
- iii. provided a written statement as to the evidence relied on and the reasons for the placement decision if no placement change is ordered; and
- iv. advised, in writing, as to behavior standards and program participation goals that will increase the inmate's chances of a less restrictive placement upon next Placement Review if no placement change was ordered.

Placement Reviews as provided by 103 CMR 423.09(3)(b)2.d.i. through iv. shall not be conducted upon the receipt of a written waiver from the inmate.

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3. Inmates Awaiting Adjudication of Disciplinary Charges. Inmates in Restrictive Housing who are awaiting the adjudication of disciplinary charges shall be reviewed by the Placement Review Committee every Monday, Wednesday and Friday.

Except as set forth in 103 CMR 423.09(3)(c), setting forth Placement Reviews that must occur within every 90 days of placement, for the Placement Reviews held every 15 days, the inmate shall be:

- a. provided with 24 hours written notice prior to the Placement Review;
- b. provided the opportunity to participate in the Placement Review in writing;
- c. provided a written statement as to the evidence relied on and the reasons for the placement decision if no placement change is ordered; and
- d. advised, in writing, as to behavior standards and program participation goals that will increase the inmate's chances of a less restrictive placement upon next Placement Review if no placement change was ordered.

Placement Reviews as provided by 103 CMR 423.09(3)(b)3.a. through d. shall not be conducted upon the receipt of a written waiver from the inmate.

4. Inmates in Restrictive Housing for Other Reasons. Inmates *e.g.*, pending investigation, pending classification, pending transfer, or refusing housing placement. Inmates in Restrictive Housing for any other reason not set forth in 103 CMR 423.09(2)(a) through (c) shall be reviewed by the Placement Review Committee every Monday, Wednesday and Friday.

In addition, for each 90-day Placement Review, the procedures set forth in 103 CMR 423.09(3)(c) shall be followed.

(c) 90-day Placement Review. Within 90 days of an inmate's initial placement in Restrictive Housing and within every 90 days thereafter, the inmate shall be reviewed as follows by a three person Placement Review Committee, consisting of one member of security staff, one member of the programming staff, and one member of the mental health staff. For such reviews, the inmate shall be:

1. provided with 48 hours written notice prior to the Placement Review;
2. provided the opportunity to participate in the Placement Review in person;
3. provided with a written statement as to the evidence relied on and the reasons for the placement decision if no placement change is ordered; and
4. advised, in writing, as to behavior standards and program participation goals that will increase the inmate's chances of a less restrictive placement upon next Placement Review if no placement change was ordered.

Notice: The Placement Review Committee shall provide the inmate with at least 48 hours advance written notice of the Placement Review. The notice shall state the basis upon which the inmate is housed in Restrictive Housing. The notice shall also state the nature of the threat requiring the Restrictive Housing placement. Notice shall be documented and may be waived by the inmate in writing.

Placement Review: The Placement Review Committee shall conduct a Placement Review. The inmate shall be offered the opportunity to participate in the review in person. The Placement Review shall not be conducted at cell front. The inmate's failure to appear at the scheduled Placement Review shall be deemed a refusal to appear but shall not be held against the inmate. The inmate's refusal to attend the Placement Review shall be documented in IMS.

At the Placement Review, the inmate may offer a verbal and/or written statement and/or submit documentation to contest the rationale for his or her placement in Restrictive Housing. The inmate shall not be entitled to call witnesses or to representation by counsel. At the conclusion of the Placement Review, the Placement Review Committee shall inform the inmate orally of the recommendation as to whether there is a need for the inmate's continued placement in Restrictive Housing.

At any Placement Review conducted 180 days after initial placement, and every 180 days thereafter, the inmate may request that the Placement Review be recorded.

Recommendation: Within two calendar days of the Placement Review, the Placement Review Committee shall enter a recommendation in IMS as to whether the inmate should continue to be housed in Restrictive Housing. A copy of this recommendation shall be served on the inmate. The recommendation shall include, but not be limited to, a description of the underlying basis that led to the Restrictive Housing placement (*e.g.*, pending disciplinary hearing), and a determination whether the inmate's return to general

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population would pose an unacceptable risk to life, property, staff or other inmates, or to the security or orderly running of the institution. Unless an investigation or safety or security concerns could be compromised, the written recommendation shall generally describe the factual basis or bases of the recommendation, including a brief description of any evidence relied upon by the Placement Review Committee. The written recommendation shall also document whether the inmate made or submitted any statement or documents, and, when appropriate, that any such statement and/or documents were considered.

Standards/Goals: Within two calendar days of the Placement Review, the inmate shall also be served with written notice of the behavioral standards and program participation goals that will increase the inmate's chances of a less restrictive placement upon next Placement Review. The written notice shall include a list of the specific programs being recommended for the inmate while in Restrictive Housing at that facility.

Inmate Appeal: If the inmate disagrees with the written recommendation of the Placement Review Committee, the inmate may submit a written appeal within five business days of service of the written recommendation.

Final Decision: Within five calendar days after the close of the appeal period, *i.e.*, the last date upon which the inmate would be entitled to submit an appeal, the Superintendent or designee shall render the final decision in IMS and provide the inmate with such decision in writing. If it is determined that the inmate shall remain in Restrictive Housing, the written decision shall explain the reasons for the inmate's continued placement/status including, but not limited to, a description of the underlying basis that led to the Restrictive Housing placement (*e.g.*, pending disciplinary hearing) and an explanation why the inmate's return to general population would pose an unacceptable risk to life, property, staff or other inmates, or to the security or orderly running of the institution.

Assistance: An inmate, either verbally or in writing, may seek an accommodation pursuant to 103 DOC 408: *Reasonable Accommodations for Inmates*, for the hearing and appeal. It shall be the inmate's responsibility to request such assistance within a reasonable time prior to the scheduled hearing or appeal. Whenever said request is made, the Institution's Americans with Disabilities Act (ADA) Coordinator shall determine what accommodations, if any, are reasonable pursuant to the procedures set forth in 103 DOC 408: *Reasonable Accommodations for Inmates*.

423.10: Calculation of Time in Restrictive Housing

If an inmate on Restrictive Housing status is being held in a Health Services Unit (HSU) or placed on a mental watch, unless medical or mental health staff determine that it is not in the best interests of the inmate, the inmate shall receive Placement Reviews in accordance with 103 CMR 423.09.

If an inmate on Restrictive Housing status is transferred from one facility's Restrictive Housing Unit to another facility's Restrictive Housing Unit, the receiving facility shall schedule the inmate's Placement Review on the basis of the date of initial entrance to Restrictive Housing at the sending facility.

If an inmate is placed on Restrictive Housing status in the inmate's general population housing unit (*i.e.*, in cell confinement) for any reason and then is moved into the Restrictive Housing Unit, the Placement Review shall be scheduled on the basis of the date the inmate was first placed on Restrictive Housing status in the general population unit.

423.11: Placement and Transfer to a Secure Adjustment Unit

Consistent with the safety of all staff and inmates, an inmate may be transferred from Restrictive Housing to outplacement such as a Secure Adjustment Unit, following recommendation from the Placement Review Committee and a determination by the Superintendent or designee that the inmate no longer requires Restrictive Housing but cannot be placed in general population.

An inmate may be placed in a Secure Adjustment Unit for reasons including, but not limited to, when an inmate is:

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- (a) awaiting a hearing for a violation of institution rules or regulations;
- (b) pending investigation of a serious violation of institution rules or regulations;
- (c) pending investigation for disciplinary offenses or criminal acts that may have occurred while incarcerated;
- (d) pending transfer;
- (e) pending classification.

To initiate the temporary placement of an inmate from Restrictive Housing to a Secure Adjustment Unit, the Superintendent or designee shall submit a completed Secure Adjustment Unit transfer request form to the Classification Division. The Classification Division shall then identify a bed in an appropriate Secure Adjustment Unit and effect such transfer.

423.12: Medical and Mental Health Services

Each inmate in Restrictive Housing shall be visited daily by a member of the medical staff (unless medical attention is needed more frequently) to ensure his or her health and well-being are maintained. These visits shall be in addition to dispensing medication, shall be announced, and shall be documented in IMS. Documentation shall be separate from a medication log and shall include that an announcement has been made. Additional documentation by medical staff shall be entered in the IMS Restrictive Housing Inmate Daily Log screen. Mental health reviews, rounds and services shall be provided in accordance with 103 DOC 650: *Mental Health Services*.

A Qualified Mental Health Professional shall make rounds in every Restrictive Housing unit and may conduct an out-of-cell meeting with an inmate for whom a confidential meeting is warranted in the clinician's professional judgment. Inmates shall be evaluated by a Qualified Mental Health Professional in accordance with clinical standards adopted by the Department of Correction and the Qualified Mental Health Professional's clinical judgment to determine whether the inmate has a serious mental illness (SMI) or Restrictive Housing is otherwise contraindicated.

An inmate diagnosed with an SMI who is held in Restrictive Housing shall be offered additional mental health treatment in accordance with clinical standards set forth in 103 DOC 650: *Mental Health Services*.

If an inmate diagnosed with an SMI remains in Restrictive Housing for more than 30 days, mental health staff shall develop an individualized treatment plan that includes weekly monitoring by mental health staff, treatment as necessary, and steps to facilitate the transition of the inmate back to general population.

423.13: Conditions of Restrictive Housing

Each superintendent shall ensure each Restrictive Housing Unit provides for security, safety and orderly operation.

Inmates in Restrictive Housing shall be provided with the following:

- (a) meals that meet the same standards established by the Commissioner for general population inmates;
- (b) access to showers and shaving not less than three days per week;
- (c) issuance of an allowed exchange of clothing, bedding, and linen, and provided laundry, barbering, and hair care services on the same basis as general population;
- (d) the same opportunities for writing and receipt of letters as is available to the general population;
- (e) access to legal materials and legal reference material;
- (f) rights of visitation and communication by those properly authorized; provided, however, that the authorization may be diminished for the enforcement of discipline for a period not to exceed 15 days for each offense;
- (g) access to reading and writing materials and the opportunity to borrow reading materials from the institution library unless clinically contraindicated;
- (h) access to either a radio or television, the choice of which will be in the Department's sole discretion, if confinement exceeds 30 days;
- (i) periodic mental and psychiatric examinations under the supervision of the Department of Mental Health;
- (j) medical and psychiatric treatment as clinically indicated under the supervision of the Department of Mental Health;

423.13: continued

(k) access to canteen purchases and privileges to retain property in a cell as provided by 103 CMR 403.00: *Inmate Property*, however, such access and privileges may be diminished for the enforcement of discipline for a period not to exceed 15 days for each offense or where inconsistent with the security of the unit;

(l) one hour of exercise per day outside their cells, five days per week, unless security or safety considerations dictate otherwise. Additional out-of-cell time shall be provided as required by 103 DOC 650: *Mental Health Services*;

(m) telephone privileges in accordance with 103 CMR 482.00: *Telephone Access and Use*. Superintendents may set limits on the permitted number of telephone calls; and

(n) the same access to disability accommodations as inmates in general population, except where inconsistent with the security of the unit.

Subject to any disciplinary sanctions imposed in accordance with 103 CMR 430.00: *Inmate Discipline*, upon initial entry to Restrictive Housing, inmates who possess such will be permitted to retain their personal tablets. Upon request, after initial entry to Restrictive Housing, and subject to disciplinary sanctions imposed in accordance with 103 CMR 430.00, inmates who do not possess personal tablets will be provided with radios and headphones to use while in Restrictive Housing.

Notwithstanding the provisions of 103 CMR 423.13, the Superintendent may further limit the amount of property and issue scrubs in *lieu* of such clothing for security purposes if there is imminent danger that an inmate or inmates will destroy an item, or induce injury to self or others.

Inmates held in Restrictive Housing for a period of more than 30 days shall have access to vocational, educational and rehabilitative programs to the maximum extent possible consistent with the safety and security of the unit and shall receive good time for participation at the same rates as the general population. In addition, step down programs shall also be offered to facilitate the gradual reintegration of the inmate into general population or the community.

Any inmate who has fewer than 180 days until the inmate's mandatory release date or parole release date and is held in Restrictive Housing shall be offered reentry programming that shall include, but not be limited to, substantial resocialization programming in a group setting, regular mental health counseling to assist with the transition, housing assistance, assistance obtaining state and federal benefits, employment readiness training and programming designed to help the person rebuild interpersonal relationships, which may include, but not be limited to, anger management and parenting courses and other reentry planning services offered to inmates in a general population setting.

423.14: Maximization of Out-of-cell Activities and Programs

To maximize out-of-cell activities, the Superintendent or designee at each facility with a Restrictive Housing Unit shall assess whether, and to what extent, out-of-cell activities over and above five hours per week of out-of-cell recreation time (*i.e.*, one hour per day, five days a week) per inmate are consistent with the safety and security of all staff and inmates in that Restrictive Housing Unit. Such additional out-of-cell activities may include, but not be limited to, additional recreation periods, longer recreational periods, or programming.

In assessing whether additional out-of-cell activities or programs can safely be offered, the Superintendent or designee shall consider any factors deemed pertinent to such assessment, including but not limited to, the number of inmates in the Restrictive Housing Unit, the number of available correction officers, the number of available program staff, the availability of physical space in the Unit, the nature of the threat posed by particular inmates, and/or the climate of the Restrictive Housing Unit.

423.15: Records and Staffing

(1) Records. All activities and events governed by 103 CMR 423.00 shall be documented in IMS including, but not limited to: admissions and releases; unit visitors; unusual events; inmates' opportunities for showering; out of cell exercise; telephone access; reviews conducted pursuant to 103 CMR 423.09 and 423.10; and deprivation of any usually authorized items or privileges of an inmate. In the latter mentioned instance, any such deprivation of a usual item or activity shall require that a report be filled out and sent to the Director of Security or designee and to the inmate's case folder.

423.15: continued

The Restrictive Housing Unit correctional program officer shall maintain Placement Review records.

(2) Restrictive Housing Unit Staff Qualifications and Training. All correction officers, supervisors and managers assigned to Restrictive Housing shall be trained in accordance with standards adopted by the Commissioner in consultation with the sheriffs and the Department of Mental Health and shall comport with the requirements set forth in 103 DOC 216: *Training and Staff Development*.

Training should include, but not be limited to, suicide prevention, trauma informed care, crisis intervention, de-escalation, signs and symptoms of mental illness, co-occurring disorders, emergency response, code 99, fire exits, restraints, IMS entries, counts, showers, medication, recreation, phones, rounds, pyramid of force, unit structure/operations, post orders, and interpersonal communications.

423.16: Responsible Staff

The Deputy Commissioner, Prison Division shall be responsible for implementation of 103 CMR 423.16 and for the review of all institutional procedures.

Each superintendent shall ensure that institutional practices conform to these directives.

423.17: Exigent Circumstances

In any instance in which an act or action required by 103 CMR 423.00 cannot or does not occur for reason of Exigent Circumstances, notification shall be made to the Deputy Commissioner, Prison Division. Where practicable, notification shall be made prior to the time mandated for the occurrence of such act or action. In such instance, responsible staff shall attempt to resolve the Exigent Circumstances as soon as possible, and the act or action shall be performed as soon as possible after the Exigent Circumstances cease to exist.

423.18: Review Date

103 CMR 423.00 shall be reviewed at least annually by the Commissioner or a designee. The person or persons conducting the review shall issue a memorandum to the Commissioner with a copy to the Central Policy File indicating revisions, additions or deletions which shall be included for the Commissioner's written approval and shall become effective pursuant to applicable law.

423.19: Severability Clause

If any article, section, subsection, sentence, clause or phrase of 103 CMR 423.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 423.00.

REGULATORY AUTHORITY

103 CMR 423.00: M.G.L. c. 124, §§ 1(c) and (q); M.G.L. c. 127, §§ 39, 39A, 39B, 39C, 39E, 39F and 39H.