

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 471.00: RELIGIOUS PROGRAMS AND SERVICES

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471.01: Purpose

The purpose of 103 CMR 471.00 is to establish Departmental guidelines regarding religious programs and services in the institutions of the Department of Correction. 103 CMR 471.00 is not intended to confer any procedural or substantive rights or any private cause of action not otherwise granted by state or federal law.

471.02: Cancellation

103 CMR 471.00 cancels all previous Departmental and institutional policy statements, bulletins, directives, orders, notices, rules or regulations regarding religious programs and services.

471.03: Applicability

103 CMR 471.00 is applicable to all employees and inmates at all state correctional institutions.

471.04: Access to Regulations

103 CMR 471.00 shall be maintained within the Central Policy File of the Department and shall be accessible to all Department employees. A copy shall also be maintained in each Superintendent's Central Policy File and at each inmate library.

471.05: Definitions

Accredited Representative. Clergy authorized by the central or local governing body of a recognized religious group or denomination to represent that group or denomination in performing religious programs and services.

Approved Visiting Area. Areas so designated by the Superintendent or a designee where inmates and their visitors may conduct visits.

Assistant Deputy Commissioner of Reentry. The executive staff person whose duties include, but are not limited to, the management of Classification, Inmate Training and Education, Programs and Reentry Divisions.

Assistant Deputy Commissioner - Northern/Southern Sector. The senior level managers who report to the Deputy Commissioner, Prison Division and are responsible for ensuring policy compliance and standardization of procedures for facilities in each sector, in such areas as staff development, labor management, disorder management, and overall operations.

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Clergy. A person ordained to perform pastoral or sacerdotal functions in a Christian church or the official of a non-Christian church.

Commissioner. Commissioner of the Department of Correction.

Community Religious Volunteer. Any person from the community, 21 years of age or older, and approved *via* the volunteer application process to assist a chaplain and/or to provide religious programs or services to inmates.

Department. The Department of Correction.

Deputy Commissioner of Clinical Services and Reentry. The executive staff person whose duties include, but are not limited to, the management of Classification, Inmate Training and Education, Health Services, Programs and Reentry Divisions.

Inmate Management System (IMS). The Department's automated information system that provides processing, storage and retrieval of inmate related information needed by Department personnel and other authorized users within the criminal justice system.

Inmate Religious Services Request Form. The form that shall be used to initiate all inmate requests for religious services or religious items not presently approved. The Inmate Religious Services Request Form is available in all inmate libraries.

Institution Chaplain. A member of a recognized religious group or denomination who is employed by the Department to provide religious programs and pastoral services to inmates.

Ordain. To invest officially with ministerial or priestly authority.

Religious Program. A program which is religious in nature and which serves to provide religious education.

Religious Service. A meeting which is religious in nature and provides an opportunity for worship, fellowship, and/or congregational participation.

Religious Services Handbook. A reference guide for Department administrators and employees which provides general information about a variety of religions and religious practices as well as a list of approved religious practices and property items. The Religious Services Handbook does not confer any rights or remedies to inmates. The Religious Services Handbook shall be maintained in all inmate law libraries.

Religious Services Review Committee. A committee consisting of the Deputy Commissioner of Clinical Services and Reentry, the Assistant Deputy Commissioners of the Northern and Southern Sectors, and the Director of Program Services. The Committee is responsible for meeting regularly to review requests for new religious practices, services or items, and to render their decisions upon these requests.

Shift Commander. The officer who has overall responsibility for the security of the institution and the care and supervision of all inmates and custodial staff during a given tour of duty.

Special Diet Request Form. The form that shall be used to initiate all inmate requests for a special religious diet. The Special Diet Request Form is available in all inmate libraries.

Special Visit. Any type of inmate visit which requires express authorization from the Superintendent or a designee.

Special Visiting Area. Any area of the institution, not usually used for visiting purposes, which may be used for a particular inmate visit with the express authorization of the Superintendent.

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Superintendent. Chief administrative officer of a correctional institution.

Unauthorized Practices. The following religious practices and activities are never authorized:

- (a) animal sacrifice;
- (b) language or behaviors that could reasonably be construed as a threat to safety, security, or the orderly running of the institution, (*e.g.*, curses);
- (c) nudity;
- (d) self-mutilation;
- (e) use, display, or possession of weapons or what appears to be a weapon (*e.g.*, paper sword, toy gun);
- (f) paramilitary exercises;
- (g) self-defense training;
- (h) sexual acts;
- (i) profanity;
- (j) consumption of alcohol;
- (k) ingestion of illegal substances;
- (l) proselytizing;
- (m) encroachment; and
- (n) disparagement of other religions.

Visiting Clergy. A clergy person of a recognized religious group or denomination who is granted access to an institution, after consultation with an institution chaplain and with the approval of the Superintendent or a designee for a specified period of time, for the purpose of providing a religious service.

Volunteer Chaplain. A chaplain, approved *via* the volunteer application process, who provides services on a scheduled basis and who is not compensated by the Department for such services.

471.06: Inmate Access to Religious Programs and Services

(1) General. The rights of inmates to practice their religious beliefs, or to confer with the clergy person of an accredited religious group shall not be abridged, provided that these activities do not threaten the safety, security or orderly running of the institution. Specifically, subject to subsequent provisions of this policy, the following shall apply:

- (a) No inmate shall be denied the exercise of religious beliefs and the liberty of worship according to the dictates of his or her conscience.
- (b) No inmate shall be required or expected to attend any religious programs or services, or to adhere to any religious belief.
- (c) No inmate shall be denied personal contact with accredited representatives of his or her faith.
- (d) Inmates shall notify the Department of their religious affiliation at the time of their initial booking. Booking staff shall enter the reported religious affiliation in the designated IMS screen. Any inmate who requests to change his or her religious affiliation shall notify the Superintendent's designee in writing. The inmate shall be asked a series of written questions by the Superintendent's designee to determine the inmate's sincerity of belief. Inmates shall be allowed to change their religious affiliation once per year. When there are changes to an inmate's religious affiliation, the designated IMS screen shall be updated by the Superintendent's designee. Inmates may declare only one faith at a time.

(2) Security. No portion of 103 CMR 471.00 shall be interpreted or implemented in such a way as to threaten the security, safety or well-being of the institution, its visitors, volunteers, vendors, inmates, staff or the public.

(3) Limitation of Access. The Superintendent or designee may limit religious programs, practices or services if such would threaten the security, safety or well-being of the institution, its visitors, volunteers, vendors, inmates, staff or the public, and where there are specific facts to substantiate the threat. Superintendents with questions regarding the limitation of religious programs, practices or services should contact the Assistant Deputy Commissioner. All limitations of religious programs, practices and services will be documented *via* a letter to the Deputy Commissioner of Reentry.

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(4) Cancellation of Programs and Services. The Superintendent or designee shall have the right, without notice, to cancel, postpone, restrict, or limit an inmate's participation in any religious program, practice or service. This action will be exercised only if the religious activity, or the inmate's participation in the activity, could jeopardize the security, safety or well-being of the institution, its visitors, volunteers, vendors, inmates, staff or the public. All cancellations, postponements or restrictions will be documented by the Shift Commander, and written notification and explanation will be given to the Institution Chaplain.

471.07: Supervision of Inmate Religious Programs and Services

(1) General. Inmate services and religious programs shall be planned, supervised and directed, including the approval and training of both lay and clergy volunteers from faiths represented by the inmate population, by Institution Chaplains or by the Superintendent's designee, as appropriate.

(2) Institution Chaplain. The services of an Institution Chaplain shall be made available upon request at all institutions, depending upon need. The Chaplain shall work under the direction of the Director of Program Services or designee, with onsite supervision provided by the Superintendent's designee. The Institution Chaplain shall also develop and maintain relationships with community religious groups and resources for the purpose of making referrals for inmate reentry planning purposes.

(3) Selection and Hiring of Chaplains. Selection and hiring of Chaplains shall be in accordance with 103 DOC 201: *Selection and Hiring*. The interview panel shall also include the Director of Program Services or designee, and the Director of Treatment or the Superintendent's designee at the institution where the vacancy exists.

(4) Ecclesiastical Endorsement. A Jewish Chaplain shall have the endorsement of a rabbinical chaplaincy commission. A Catholic Chaplain shall have the endorsement of the local Archbishop. A Protestant Chaplain shall have the endorsement of his or her local church and the appropriate ecclesiastical authority. A Muslim Chaplain shall have the endorsement of the Imam of the Muslim Chaplain's local Masjid.

(5) Duties and Responsibilities. The Institution Chaplain shall have physical access to all areas of the institution and be responsible for:

- (a) Planning, developing, coordinating and implementing inmate religious programs and services.
- (b) Completing special activity and program applications for all religious programming with the exception of pure worship services.
- (c) Establishing schedules, calendars, postings or other methods of informing inmates and staff of existing and planned religious programs and services. Programs shall be planned in conjunction with the Superintendent's designee.
- (d) Providing supervision to all religious programs including, but not limited to:
  1. Recruiting, screening and orienting prospective volunteers for religious programs and services;
  2. Utilizing volunteer chaplains;
  3. Approval and training of both lay and clergy volunteers from faiths represented by the inmate population.
- (e) Providing pastoral counseling and guidance to the inmate population.
- (f) Consulting with and advising professional staff on religious/spiritual issues associated with the inmate population.
- (g) Submitting an annual budget request to the Superintendent or designee.
- (h) Working with the Director of Program Services to develop resources and to expand and/or improve religious services.
- (i) Attending Chaplain meetings and professional training as developed by the Director of Program Services.
- (j) Attending professional training, seminars, or retreats mandated by the religious group with which the Chaplain is affiliated, approved by the Director of Program Services.

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- (k) Assisting inmates in the development of reentry plans to meet their religious and spiritual needs. When specific referrals are made, they shall be documented in the designated IMS reentry screens.
- (l) Providing direct or indirect religious services for inmates incarcerated at the Institution Chaplain's assigned facility. Once an inmate is transferred or released, the Institution Chaplain shall discontinue services.
- (m) Developing and implementing family reunification activities to foster community support and strengthen inmate reentry. Obtaining the written authorization of the Superintendent or designee prior to contacting an inmate's family members.
- (n) Developing and maintaining relationships with community religious groups and resources for the purpose of inmate reentry planning.

471.08: Range of Religious Activities and Services

- (1) General Policy. Each institution shall make reasonable efforts to establish and maintain religious activities and services for all inmates who are affiliated, or wish to become affiliated, with recognized religious denominations or groups. Approved religious practice and property items for recognized religious denominations or groups are listed in the Religious Services Handbook.
- (2) Clergy Services. The Superintendent, or designee, and the Institution Chaplains, should make reasonable efforts to ensure that an accredited representative of an inmate's religious faith is available to provide formal or informal services to inmates who so request wherever the inmate is confined within the institution.
- (3) Religious Groups. Recognized religious groups or denominations are listed in the Religious Services Handbook. An inmate who is affiliated with, and wishes to participate in, a recognized religious group not currently functioning at an institution, should comply with the procedures outlined in 103 CMR 471.09.
- (4) Religious Activities. Each religious group is encouraged to plan its own activities, using the appropriate community and institution resources. Religious activities include, but are not limited to: worship, interfaith services, religious instruction, reading and study, religious discussion groups, and pastoral counseling.
- (5) Special Religious Diets.
  - (a) Inmates whose religion places restrictions on diets should be permitted access to a special religious diet. However, in limited situations where the institution/Department is not able to meet all aspects of a special religious diet request due to security and/or facility limitations, the institution shall make every effort to provide a reasonable accommodation to the diet request. Requests for special religious diets shall be initiated by interested inmates, using the Special Diet Request Form, which is available in all inmate libraries. The form shall be submitted to the Superintendent's designee. To ensure continuity of an inmate's special religious diet upon transfer to another facility, the information shall be entered into the designated IMS screen. An inmate's abuse of an approved special religious diet may result in his or her removal from a special religious diet.
  - (b) Where religious holidays specify particular dietary requirements (*e.g.*, Passover, month of Ramadan), special arrangements should be made so that inmates are able to adhere to their religious beliefs.
- (6) Facilities for Services. Adequate space and equipment shall be provided for the conduct and administration of religious programs. Recognized religious denominations or groups shall be provided a place for services. Based on security needs, the size of groups at services may be restricted by the Superintendent or designee.
- (7) Scheduling. Institution Chaplains shall post religious program and service schedules in appropriate housing units to keep inmates and staff informed of religious programs and services.
- (8) Special Services. Special religious services may be scheduled with visitors and inmates with approval of the Superintendent.

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(9) Religious Publications. Inmates may have access to approved religious books, magazines, and newspapers as set forth in 103 CMR 403.00: *Inmate Property*, and 481.00: *Inmate Mail*. Inmates shall not have direct access to the Internet to order religious books.

(10) Inmate Requests for Religious Practices, Programs, Groups or Items Not Currently Approved. An inmate who requests to participate in a religious practice, program or group not currently approved, or who requests to possess a religious item not approved in the Religious Services Handbook or in 103 CMR 403.00: *Inmate Property*, shall:

(a) Submit a written request, using the Inmate Religious Services Request Form to the Superintendent's designee. Inmate Religious Services Request Forms shall be available to all inmates in the inmate library. This process, as set forth herein, shall be the sole means/mechanism by which an inmate may seek a religious practice, program, group or religious item not otherwise approved.

(b) The Superintendent's designee shall acknowledge receipt of the request, by providing a dated copy of the completed request form to the inmate. The Superintendent's designee shall forward the request to the Superintendent within ten business days.

(c) The Superintendent shall determine whether the request may be reasonably accommodated in light of the institution's available resources and security level, and, based on that determination, shall recommend approval, an alternative, or recommend denial of the request to the Religious Services Review Committee within ten business days.

(d) The Religious Services Review Committee shall review the inmate's request, and the Superintendent's recommendation, and then shall approve, modify, or deny the request within 60 business days of receipt. The Religious Services Review Committee has the discretion to extend the time in which to issue a decision, if additional information about the practice, program, group or item is required. The Religious Services Review Committee may also determine that a reasonable alternative will serve to satisfy the request.

(e) The Director of Program Services shall provide the Superintendent with written notification of the Religious Services Review Committee's decision. The Superintendent shall ensure that the written notification is provided to the inmate and that the date served is documented. If the request is denied, the notification shall include the reasons for denial. Denied requests shall inform the inmate of his or her right to appeal.

(f) An inmate whose request has been denied may appeal to the Commissioner or designee. The original request must accompany the appeal. The appeal must be filed within ten business days from receipt of the Religious Services Review Committee's decision.

(g) The Commissioner or designee shall have 30 business days in which to uphold, modify, or overturn the decision of the Religious Services Review Committee and shall inform the inmate, Superintendent and Religious Services Review Committee, in writing, of the final decision on the inmate's request.

(h) The appeal mechanisms set forth in 103 CMR 471.08(10) shall be the exclusive administrative remedies by which to appeal from an adverse decision regarding inmate requests for religious practices, programs, groups or items.

471.09: Access of Visiting Clergy

(1) General. Clergy visits shall take place during normal visiting hours. However, under extenuating circumstances, special visits with clergy may be permitted for any reasonable purpose with the authorization of the Superintendent or designee. When special visits are scheduled outside normal circumstances, they shall be scheduled in the IMS Inmate Schedule screen utilizing the activity type of "visit" and a notation of "clergy" in the description field.

(2) Special Visiting Areas. Clergy visits shall normally be held in approved visiting areas. However, if these areas do not provide the degree of privacy that the clergy member deems appropriate for the purpose of the visit, the clergy member may request that a special visiting area be provided, subject to the Superintendent's approval. The Superintendent of the institution or designee may identify any area of the institution as a special visiting area for clergy visits.

(3) Visiting clergy may be permitted to meet with more than one inmate at a time where the following procedure is utilized:

(a) Any requests by visiting clergy to meet with more than one inmate at a time shall be referred to an Institution Chaplain.

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(b) The Institution Chaplain shall verify, on a case-by-case basis, the status of the inquiring clergy. If the Institution Chaplain verifies that the visiting clergy is in good standing, he or she shall notify the Director of Treatment or the Superintendent's designee.

(c) Upon approval by the Superintendent, visiting clergy may then schedule visits with more than one inmate as allowed, on conditions set forth by the Superintendent.

471.10: Community Participation in Inmate Religious Activities

(1) General. Each institution will actively encourage clergy and other members of community religious organizations to become involved in the inmate religious activities.

(2) Community Religious Volunteers. Any member of the community who is interested in acting as a volunteer in the inmate religious program shall initially be directed to the Institution Chaplain. Each person shall also be reviewed for volunteer status pursuant to 103 CMR 485.00: *Volunteers and Volunteer Programs*.

471.11: Access of Volunteer Chaplains

Volunteer chaplains' access shall be limited to the needs of the religious program or activity in which they are participating.

471.12: Program Assessment and Planning

(1) General. Each institution shall monitor its religious programs on an on-going basis and conduct periodic assessments.

(2) Program Monitoring. The Superintendent or a designee shall develop a monitoring system that provides an on-going review of all religious activities and services and be responsible for maintaining all records related to program monitoring. The monitoring system shall include:

- (a) The estimated number of inmates affiliated with each religious group or denomination.
- (b) Results of meetings with other institution staff and their suggestions on existing or proposed religious programs and services.
- (c) Individual program evaluations.

(3) Quarterly and Annual Reports. The information gathered through the monitoring process shall be incorporated into the institution quarterly and annual reports.

471.13: Pre-release Center Application

(1) General. Inmates of pre-release centers should use program related activity time to participate in community religious activities.

(2) Cadre. Superintendents of pre-release centers who have *cadre* positions shall make special arrangements to meet these inmates' religious needs in accordance with established Department policy and statutory requirements.

471.14: Annual Review Date

103 CMR 471.00 shall be reviewed at least annually by the Commissioner or a designee. The party or parties conducting the review shall develop 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.

471.15: Severability

If any article, section, subsection, sentence, clause or phrase of 103 CMR 471.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner or otherwise inoperative, such decision will not affect the validity of any other article, section, subsection, sentence, clause, or phrase of 103 CMR 471.00.

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471.16: Emergency

Whenever, in the opinion of the Commissioner or designee, or the superintendent of a state correctional institution, an emergency exists which requires suspension of all or part of 103 CMR 471.00, the Commissioner or designee or the superintendent may authorize such suspension, provided that any suspension lasting more than 48 hours shall be approved by the Commissioner

REGULATORY AUTHORITY

103 CMR 471.00: 42 U.S.C. §§ 2000cc, *et seq.*; M.G.L. c. 124, §§ 1(c) and (q) and c. 127, §§ 88 through 90.