

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 477.00: AVOCATION PROGRAMS

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471.01: Purpose

The purpose of 103 CMR 477.00 is to establish Department of Correction policy regarding inmate avocations. 103 CMR 477.00 is not intended to confer any procedural or substantive rights or any private cause of action not otherwise granted by state or federal law.

477.02: Authorization

This policy is issued pursuant to M.G.L. c. 124, § 1(c) and (q).

477.03: Cancellation

103 CMR 477.00 cancels all previous department policy statements, bulletins, directives, orders, notices, rules or regulations regarding inmate avocations to the extent they are inconsistent with 103 CMR 477.00.

477.04: Applicability

103 CMR 477.00 applies to all department employees and inmates within the Department of Correction.

477.05: Access to Policy

103 CMR 477.05 shall be maintained within the central policy file of the department and will be accessible to all department employees and inmates. A copy of 103 CMR 477.00 shall also be maintained in each superintendent's file and inmate library.

477.06: Definitions

Avocation - Any activity authorized by the Commissioner or his designee, which allows an inmate to use his leisure time and skills for pleasure and/or hobby. This activity shall normally take place only after an inmate has completed his regular work assignment.

Avocation Area - Any area designated for avocation purposes. Each avocation and avocation area must be authorized by the Commissioner or his designee.

Avocation Materials - Any equipment, goods, or tools furnished by an inmate for use in the operation of that inmate's avocation.

Avocation Officer - The security staff person selected by the superintendent or his designee to supervise, monitor, and report on the avocation program(s).

477.06: continued

Commissioner - The Commissioner of the Department of Correction.

Department - The Department of Correction.

Superintendent - The chief administrative officer of a correctional institution.

477.07: General Policy

(1) The Commissioner or his designee may in his discretion provide designated inmates of a correctional institution with the opportunity to work at an approved hobby or craft consistent with security and safety considerations within the institution.

(2) If such an opportunity has been provided to designated inmates of an institution pursuant to 103 CMR 477.07(1), the superintendent of that institution shall develop written guidelines setting forth the management procedure for avocations within the institution. Such guidelines shall conform to the requirements set forth in 103 CMR 477.00 and shall be subject to the written approval of the Commissioner or his designee. Such written approval shall constitute authorization of the superintendent as the Commissioner's designee.

(3) Such management guidelines shall be developed and utilized for the purpose of interpreting and defining the operational details of 103 CMR 477.00 and shall not be used to effect a material change in the basic policy of the Department of Correction regarding inmate avocations.

477.08: Institution/Facility Management Guidelines

Institution/facility management guidelines shall include but not be limited to:

(1) A method of determining inmate eligibility for an avocation program. New inmates should not be eligible until they have completed institution orientation.

(2) A description of the types of avocations allowed by the Commissioner or his designee and areas/times where such activities will take place.

(3) A process whereby an inmate may make application to operate an avocation. All avocation requests must be approved by the Superintendent or his designee in consultation with the avocation officer.

(4) No inmate shall be allowed to work in another inmate's approved avocation.

(5) A method of control of all avocation tools and materials, consistent with the Department Tool Control Policy, 103 DOC 511.

(6) A method of purchase and delivery of all avocation supplies. All deliveries must be supervised by a member of the security staff.

(7) All payment of materials purchased for inmate avocations must be made by check.

(8) A method to ensure that all combustible/toxic/caustic materials are secured in locked areas when not in use, and that all use of such materials conforms to applicable municipal, county, state and federal minimum safety standards.

(9) Any area where approved avocation products may be displayed shall be determined by the superintendent and/or his designee.

477.08: continued

(10) A description of the process whereby all sales of avocation articles/materials within or without the institution must be approved by the Commissioner or his designee. Where such sales are approved, inmates may request a fair market price for their products, subject to any limitations imposed by the institution on the price chargeable for any one product and/or the maximum income an inmate may earn in one year. However, all sale prices shall be increased by 5% to allow for the Massachusetts sales tax. Inmates shall receive receipts for items sold.

477.09: Sale of an Avocation

(1) Sale or transfer of an avocation between inmates of an institution shall not be allowed.

(2) All inmate avocations shall be owned and controlled by the Department of Correction. All avocation materials provided by the inmate at his expense shall remain the property of the inmate. If the inmate no longer wishes or is no longer permitted to operate his avocation, the Commissioner or his designee shall determine if the Department of Correction wishes to purchase all or part of such materials. If the department does not wish to purchase such materials, or the inmate does not wish to sell them, the inmate shall have them picked up or sent out of the institution in which the avocation is being operated. Department property regulations relating to the disposal of contraband shall apply to any materials not picked up or sent out of the institution within a reasonable period of time. Sale of any avocation materials shall be based upon the value of such materials at fair market value.

(3) The avocation officer or staff person designed by the superintendent shall maintain a record of each purchase of avocation materials. A record of each such purchase shall also be kept by the Commissioner or his designee.

477.10: General Provisions

(1) Each institution should normally provide basic utilities such as heat, electricity, and running water, within reason. Inmates involved in avocation must supply their own tool and materials. Unless otherwise authorized by the Commissioner or his designee, all avocation tools shall be maintained pursuant to the Department Tool Control Policy, 103 DOC 511.

(2) The Commissioner, his designee or the superintendent of the institution shall have the right, at any time, with or without notice, to terminate any, or all, of the avocations at any, or all, institution(s), for any reason whatsoever.

(3) The Commissioner, his designee or the superintendent of the institution, shall reserve the right to revoke an inmate's privilege to operate an avocation for any reason whatsoever, including but not limited to failure to comply with department regulations, rules and/or institution rules or guidelines. Violation of department of institution rules shall also be grounds for disciplinary action.

477.11: Responsible Staff

Each superintendent shall be responsible for supervising the operational details of any avocation program within his institution and for developing necessary and appropriate management guidelines for the operation of that program.

477.12: Review Date

103 CMR 477.00 shall be reviewed annually from the effective date by the Commissioner or his designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy to the central policy file indicating that the review has been completed. Recommendations for revisions, additions or deletions shall be included.

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477.13: Severability Clause

If any article, section, subsection, sentence, clause or phrase of 103 CMR 477.00 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, clause or phrase of 103 CMR 477.00.

REGULATORY AUTHORITY

103 CMR 477.00: M.G.L. c. 124, § 1(c) and (q).