

 <p style="text-align: center;">STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES</p> <p style="text-align: center;"><b>DIRECTIVE</b></p>	TITLE		NO. 4403
	<b>Inmate Visitor Program</b>		DATE 10/10/1991
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REFERENCES (Include but are not limited to) Correction Law 146 and 7 NYCRR Sect. 200.5 and Chapter V, Subchapter A	APPROVING AUTHORITY  /S/ SUSAN E. BUTLER, DEP. COMM.		

**I. PURPOSE** This directive sets forth the policy and guidelines for uniform operation of the Inmate Visitor Program which gives inmates opportunities for personal contact with friends and relatives. This directive is intended to provide such guidance for Department staff, inmates, and visitors to correctional facilities under the jurisdiction of the Department of Correctional Services.

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**II. REFERENCES** The following sources contain additional information concerning visits to correctional facilities and/or communication with inmates:

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| #4022 - Special Events Program           | #4423 - Inmate Telephone Call-Home Program                 |
| #4404 - Inmate Legal Visits              | #4500 - Family Reunion Program                             |
| #4421 - Inmate Privileged Correspondence | #4760 - Inmate Organizations                               |
| #4422 - Inmate Correspondence Program    | #4935 - Outsiders Visiting or Applying to Visit Facilities |

**III. GENERAL POLICIES**

- A. Visiting times. At maximum security facilities, visiting is allowed every day of the year and at hours intended to encourage maximum visitation.
- At medium and minimum facilities, visiting is allowed on weekends and holidays only. At Work Release facilities, only inmates held in restriction status shall be allowed visitors.
- Except in cases of emergency, and except for instances of termination, suspension or revocation under provisions of 7 NYCRR Section 200.5 and 7 NYCRR Chapter V, Subchapter A (as described in Section VIII of this directive), the number, length, and frequency of visits by each visitor will be limited only as necessary to accommodate all visitors who arrive during scheduled visiting times
- B. Visiting spaces. The designated area or areas for visiting shall be arranged to provide as much space as practical, while maintaining appropriate security, along with adequate heat, light, and ventilation, convenient seating arrangements for both visitors and inmates, lavatory facilities, and any other appropriate accommodations.
- In facilities which have more than one visiting area, visiting room assignments may be made based upon the inmate's program assignment, institutional adjustment, or security risk level. However, in such instances, no inmate shall be deprived of visiting privileges available to inmates in the general population except as provided in 7 NYCRR Section 200.5 and 7 NYCRR Chapter V, Subchapter A (as described in Section VIII of this directive).

The Superintendent will designate an area for confidential meetings which will insure the privacy of conversations during professional visits of attorneys or their duly authorized representatives or visiting clergy (see Directive #4202, "Religious Programs and Practices" and Directive #4404, "Inmate Legal Visits").

- C. Local control. Superintendents may modify any provisions of this directive to adjust to local conditions only with the prior approval of the Commissioner.
- However, a Superintendent may deny, limit, suspend, or revoke visitation privileges of any inmate or visitor if the Superintendent has reasonable cause to believe that such action is necessary to maintain the safety, security, and good order of the facility.
- D. Inmate Consent. No inmate is to be visited against his will by any person including attorneys or their duly authorized representatives or representatives of the news media.
- E. Security. All visitors, inmates, and visiting areas will be searched prior to visiting and carefully observed to guard against importation of contraband, to deter misbehavior, and to prevent escapes.
- F. Visitor Record. A record of prospective visitors for each inmate, and a record of each visit will be maintained. Unrecorded persons will not be admitted to a facility except as provided for in sub-section G below.
1. Names provided by an inmate at reception will form the basis for that inmate's Visitor Record. This record will be maintained and updated by each facility having custody of the inmate.
  2. The facility Visitor Record will be updated as visitors register and are processed to visit inmates. This record will be kept and maintained by security staff in the area where visitors are processed.  
To add a person to the Visitor Record, the inmate must send a memo containing the prospective visitor's name, address and relationship data to the Visitor Record Desk.
  3. A visitor's name shall be removed from an inmate's Visitor Record upon written request of that inmate or the visitor.
- G. First-time Visitors. The Watch Commander will allow initial visits for persons not on an inmate's approved visitor record subject to the following conditions:
1. First-time visitors will be allowed to visit if proper identification is presented and if the inmate to be visited agrees to the visit.
  2. First-time visitors will be required to sign a statement indicating that they have been advised of and agree to abide by the rules and regulations regarding visiting. This signed statement will be attached to the inmate's visitor record, and a copy will be sent to the inmate.

#### IV. RESTRICTIONS.

- A. Visitors Under 18 Years of Age.
1. All minors must be escorted by an adult approved to visit or an adult in an official capacity with proper identification and the approval of the Superintendent or his designee. The adult escort will be responsible for the behavior and conduct of the minor while on facility property as well as for identification of the minor.
  2. Unmarried minors under 18 years of age, who are not accompanied by their parent or guardian, must have written permission from the parent or guardian to visit an inmate. Written permission may be mailed to the facility in advance or presented by the accompanying adult at the time of the visit.  
Married persons under 18 years of age who are related to an inmate do not need the permission of a parent, guardian, or an adult escort in order to visit an inmate; however, proof of age and marriage will be required.
  3. Children of inmates will be allowed to visit without written permission. No visit will be permitted if a court order prohibiting such visiting is on file with the facility. Children of inmates who are 16 years of age and older will be admitted without adult escort.

4. Special arrangements approved by the Superintendent of the facility may be made for groups of children to be brought to the facility by an adult approved to visit (e.g., for the Children's Center Program at Bedford Hills).

B. Visitors with Criminal Histories.

1. Pending or past criminal proceedings or ex-inmate status shall not solely disqualify any person from visiting an inmate in a correctional facility. However, the Superintendent of a facility may deny visiting privileges to such persons by indicating in writing with specific reasons if he feels that the visitor's presence would create a threat to the security and good order of the facility. Criteria to be considered shall include but shall not be limited to: the purpose of the proposed visit; the former institutional adjustment of an ex-inmate or the nature of the pending criminal proceeding; and, the time frame between release and the proposed visit.
2. Persons under probation or parole supervision will be allowed to visit an inmate only with the prior permission of the Superintendent and written permission of the person's probation or parole officer.
3. An inmate released from any facility through the Department's Temporary Release Program will be allowed to visit another correctional facility only with the prior permission of both the Superintendent of the facility from which the inmate is temporarily released and the Superintendent of the facility which the inmate wishes to visit.

- C. Visits to Hospitalized Inmates. If an inmate is in a facility hospital or outside hospital, the inmate may be visited for limited periods of time by persons on his Visitor Record, an attorney or his duly authorized representative, or visiting clergy. Such visits shall be subject to the approval of the Superintendent, the facility's Health Services Director or the inmate's doctor, and the visiting rules of the hospital.

- D. Cross-Visiting Requests. Cross visiting is the participation of two inmates in a visit with one or more visitors. Cross visiting is permitted with the approval of the Superintendent and, in the case of immediate family members, is to be encouraged.

1. Inmates wishing to cross visit must submit requests to their respective counselors at least one month prior to the proposed visit.
2. Only persons who are on both inmates' visiting records may participate in cross visits.
3. Cross visiting may be limited when necessary in order to accommodate all visitors.
4. Small children may play with each other with the permission of their families provided that they are not disruptive.
5. When a cross visit is taking place the two inmates may participate in a common photograph.

- V. **ENTRANCE RULES AND PROCEDURES.** Inmates and their authorized visitors will be expected to abide by the facility's rules and regulations and to follow the instructions and guidelines given by facility staff. Violation of these rules and procedures by visitors may result in the denial of a visit and the suspension or revocation of future visits. (See "Termination, Suspension, and Revocation" in Section VIII below)

All visitors shall be provided with written notification of the visiting rules; however, it will be considered sufficient notice if such rules are conspicuously posted.

- A. Identification. Visitors to a correctional facility will be required to furnish proof of identification. Failure to produce adequate identification shall result in the denial of a visit. Prior to visiting, visitors shall sign appropriate visiting forms as required by the facility. These records will be maintained by the facility.

Adequate identification shall consist of any of the following:

1. Picture I.D.
2. Signature Card (credit card, social security card, employment I.D., welfare card, drug program card, Armed Services I.D., driver's license, motor vehicle registration, or any other similar document with the visitor's signature on it).
3. Birth or baptismal certificates shall not be considered adequate identification for an adult visitor; however, they may be used as identification for a minor child. Absent any other creditable documentation, an adult approved to visit may vouch for the identification of a minor.

4. To participate in Family Reunion Program visits, a spouse must possess documentation of a valid marriage license or a declaratory judgment stating the validity of an out-of-state common-law marriage.  
Each visitor may be hand stamped upon entry to a facility to aid in the identification of visitors leaving the facility.
- B. Contraband. All visitors shall be searched and required to surrender contraband and any other article or thing considered potentially dangerous to the safety and security of the facility. (See "Searches" in Section VI below). Contraband is defined as:
  1. any article or thing the possession of which would constitute an offense under any law applicable to the public;
  2. any article or thing which is readily capable of being used to cause death or serious physical injury, including but not limited to a hand gun, shoulder gun, cartridge, knife, explosive, or dangerous drug (including marijuana);
  3. any article or thing that is introduced into a correctional facility under circumstances evincing an intent to transfer same to an inmate without the permission of the Superintendent or his designee;
  4. any article or thing that is not specifically authorized to be possessed by an inmate in a State correctional facility pursuant to the rules of the Department or the local rules of the facility. (Alcohol and money are among the items inmates are not permitted to possess.)
- C. Sobriety. Visitors appearing to be intoxicated or under the influence of drugs will not be admitted to a correctional facility.
- D. Attire. Visitors appearing in inappropriate attire will not be admitted to a correctional facility. The following are unacceptable: see-through clothing, bare midriffs or backs, plunging necklines, short-shorts or athletic shorts, bare feet, and bathing suits. If in doubt, the visitor should not wear a questionable item of clothing.
- E. Medication. Visitors having medication in their possession shall declare it and relinquish it to the gate officer.
  1. Medication shall be identified and stored in a secure area.
  2. If a visitor needs the medication during the visiting period, it may be obtained as directed by the facility.
- F. Packages. Prior to a visit, a visitor may leave a package only for the inmate they are visiting. Only authorized items will be allowed, and the package contents will be searched prior to delivery to the inmate. (Ref. Dir. #4911)
- G. Money. Visitors may leave funds for deposit only to the account of the inmate they are visiting. Funds may be received in cash, check or money order, but shall be limited to \$50 per inmate per day regardless of the number of visitors transmitting funds. The Deputy Superintendent of Administration shall employ appropriate fiscal policies and procedures to insure accountability of monies received.
- H. Small Children. A visitor arriving with a small child will be allowed to take a diaper bag, three (3) diapers and plastic baby bottles into the visiting room, provided all articles are thoroughly searched beforehand. If possible, a suitable area within the perimeter of the visiting room should be provided for the changing of diapers.

## VI. SEARCHES.

- A. Normal Search Procedures.
  1. Except at Correctional Camps, each visitor entering the facility shall pass through a metal detector.
  2. If there is any difficulty clearing a visitor by use of the walk-through metal detector, a hand frisker shall be used to locate the problem area.

If the hand scanner fails to locate the source of the problem or the employee feels that there is probable cause for further processing, proceed as set forth in Section B (below), even if the visitor offers to voluntarily remove items of clothing other than coat, hat, or shoes.

3. Handbags, briefcases, and other containers shall be searched.
4. Items not permitted in the facility shall be properly identified and stored or placed in available lockers until the visitor leaves the facility.
5. Upon surrender of contraband, the visitor shall be given a receipt for the article. When such person leaves the facility, the item will be returned upon surrender of the receipt. If, however, there is reasonable ground to believe that the possession of such article would constitute an offense under any law, the contraband shall not be returned to the visitor. Instead, the employee shall detain the visitor in the facility and notify the appropriate law enforcement agency.

Contraband shall not be deemed unlawfully introduced by a visitor into a correctional facility if the contraband is voluntarily surrendered by the visitor to an employee in the visitor reception area of the facility.

6. When undeclared contraband is found, the visitor's intent shall be controlling. At times, innocent oversights will occur (e.g. medication). Officers should use their discretion in judging whether the visitor intentionally attempted to introduce contraband into the facility. Criteria to be considered include past history, the visitor's demeanor, whether it appears that the contraband was for the visitor's personal use and was inadvertently left in a pocket or handbag, and whether an effort was made to conceal the contraband where it would not readily be found.

B. Strip Searches.

1. If a visitor to a correctional facility has complied with the aforementioned processes and the officer in charge believes further processing is required to prevent the introduction of contraband into the facility, the visitor shall be asked to remain in the gate area. The officer in charge shall contact his immediate superior.
2. If, after evaluating the situation, the supervisor determines that further processing is warranted, the Superintendent or his designee in charge of the facility shall be notified and shall make the determination as to whether a strip search of the visitor is warranted.
3. In order to justify a strip search of a particular visitor, the Superintendent or his designee, must point to specific objective facts and rational inferences that he is entitled to draw from those facts in light of his experience. In other words, the Superintendent must have reasonable cause to believe that contraband is concealed upon the person of the visitor. Generalized suspicion of smuggling activity is insufficient.

Strip searches may not be ordered based on uncorroborated tips merely stating that visitors would attempt to introduce contraband into a facility where the informant's reliability cannot be assessed and observations of visitors upon arrival at the facility do not contribute to reasonable suspicion of contraband. Reasonable suspicion exists only if the tip can be linked to other objective facts.

4. If a visitor refuses to submit to a strip search the visit may be denied by the Superintendent or his designee. In the alternative, a non-contact visit may be allowed in the discretion of the Superintendent if sufficient staff and a non-contact visiting area is available.
  - a. Guilt is not to be assumed from a visitor's refusal to submit to a strip search.
  - b. Future visits may not be denied solely on the basis of refusing to submit to a strip search.
  - c. A visitor's past refusal to submit to a strip search may not be used as a reason for future strip searches.
5. If a visitor submits to a strip search, the supervisor must obtain his/her written consent on Form #2061, Notice of Consent to Search. In the case of a minor child, the consent must be given by a parent, guardian, or a person in an official capacity regarding such minor.
  - a. Strip searches shall be conducted in locations heated to a level of human comfort for disrobed persons.

- b. Strip searches shall be conducted by an officer of the same sex as the visitor being searched.
- c. In performing strip searches, officers shall conduct themselves professionally. Officers shall be alert to the sensitive nature of the strip search and conduct such searches in a manner least degrading to all involved while fulfilling the objective of the search.
- d. In an unusual circumstance when the visitor to be strip searched is a minor child, the parent, guardian, or person in an official capacity who has escorted the minor to the facility shall be requested to be present and, at the discretion of the officer, may participate in the strip search.
- e. If at any time during the procedure the minor objects to the strip search, the procedure shall be terminated immediately.

**VII. VISITING ROOM PROTOCOL AND RULES** Inmates and their authorized visitors will be expected to abide by the facility's rules and regulations and to follow the instructions and guidelines given by facility staff.

Violation of these rules and protocol by either inmates or visitors may result in termination of a visit and the suspension or revocation of future visits. (See "Termination, Suspension, and Revocation" in Section VIII below)

- A. Search. The visiting room and the visiting room lavatories will be searched before and after visiting to make certain that nothing has been concealed therein which might be removed by visitors or inmates.  
Each inmate's person, clothing, and possessions will be searched before and after entrance to visiting areas in accordance with Directive #4910, "Control Of and Search For Contraband."
- B. Food. Only foodstuffs or beverages purchased by the visitor from vending machines located in the visiting area may be consumed in the visiting room. Visitors to correctional camps shall normally be permitted to share foods brought into the facility with the inmates they are visiting, at the discretion of the Superintendent.  
An exception will be made for visitors with small children needing to utilize baby bottles. Plastic baby bottles will be allowed into the visiting room after the contents have been examined. Jars of baby food should be left in a designated area where the visitor may go to feed the child.
- C. Physical Contact. Acceptable physical contact during contact visits is described as follows:
  1. At a minimum, a visitor and inmate may embrace and kiss at the beginning and at the end of any contact visit. Brief kisses and embraces are permitted during the course of the contact visit. However, prolonged kissing and what is commonly considered "necking" or "petting" is not permitted.
  2. A visitor and an inmate may hold hands, as long as the hands are in plain view of others.
  3. Inmates and visitors sitting next to one another may also rest their hands upon each others' shoulders or around each others' waists. Resting one's head on another's shoulder is also permitted when the inmate and visitor are sitting next to one another.
  4. In general, kissing, embracing, and touching are allowed as long as they would be acceptable in a public place and do not offend other inmates and visitors or aid in the introduction of contraband or escape attempts.
- D. Objectionable Behavior. Objectionable behavior may result in termination of a visit. Such behavior may include loud, abusive, or boisterous actions, disruptive or argumentative behavior, or unacceptable physical contact or conduct. (See Appendix A)
- E. Exchange or Review of Items. During visits, inmates and visitors are not authorized to exchange or share any items without prior approval of the area sergeant.
  1. Generally, approval may be granted for inmates and their visitors to review only personal legal papers, the Bible and Koran and similar religious writing, and personal photographs after the materials have been examined for contraband by facility security personnel.
  2. If visitors wish to leave any materials with the inmate that they have brought into the visiting area, or if they wish to remove materials brought into the visiting area by the inmate, the exchange must take place through the package room. (See Dir. #4404 for exchange of legal materials.)

- F. Legal Visits. An inmate law clerk or an inmate approved to provide legal assistance pursuant to Directive #4483, "Law Libraries and Inmate Legal Assistance," shall be permitted to be present at conferences between an inmate and his attorney. (Ref. Dir. #4404)
- G. Lavatories. Inmates and visitors will not be allowed to use the same lavatories.
- H. Departure. Inmates and visitors shall not be permitted to leave the visiting area together.  
The visited inmate must be accounted for by the visiting room officer before the visitor is allowed to leave. Visitors may be detained until the inmate is secured.
- I. Smoking. Smoking is prohibited in indoor visiting areas.

**VIII. TERMINATION, SUSPENSION, AND REVOCATION** A Superintendent may deny, limit, suspend, or revoke the visitation privileges of any inmate or visitor to visit each other if the Superintendent has reasonable cause to believe that such action is necessary to maintain the safety, security, and good order of the facility.

- A. Termination of a Visit. A visit may be terminated at the discretion of the Superintendent or his designee.
  - 1. Termination for Objectionable Behavior.
    - a. Objectionable behavior may consist of loud, abusive, or boisterous actions, disruptive or argumentative behavior, or sexual activities which constitute unacceptable physical contact (see Appendix A).  
Facility staff supervising visiting areas shall be advised that they may give inmates and visitors instructions on proper behavior and admonitions if they observe improper behavior without giving out an "official" warning.
    - b. Before termination of a visit, a verbal warning must be issued by the visiting room officer to the visitor and the inmate that the objectionable behavior is prohibited and that failure to cease such behavior will result in termination of the visit. Such warning will be noted on the visitor's card.
    - c. If a visit is terminated, the visiting room officer will advise the visitor and inmate that visiting privileges may be suspended or revoked for such behavior.
  - 2. Termination for Misconduct.
    - a. A visit will be terminated immediately if any of the following misconduct takes place:
      - (1) visitor or inmate becomes apparently under the influence of alcohol or drugs during a visit;
      - (2) unapproved parties continue to cross-visit after a warning is given by facility staff;
      - (3) a visitor or inmate refuses to follow instructions given by facility staff or facility rules;
      - (4) visitor or inmate attempts to introduce or pass contraband to the other as defined in V-B above; or
      - (5) assault on facility staff, inmate, or other visitors.
    - b. If a visit is terminated, the visiting room officer will advise the visitor and inmate that visiting privileges may be suspended or revoked for such misconduct.
- B. Suspension of Contact Visiting. Contact visiting privileges may be suspended, limited, or revoked for either a visitor (pursuant to 7 NYCRR Part 200, and subsections C and D below) or an inmate (pursuant to 7 NYCRR Chapter V, Subchapter A, and subsection E below).
  - 1. Grounds. Contact visiting rights may be suspended by the Superintendent for a violation of visiting rules and regulations which represents a threat to the safety, security, and good order of the facility. However, grounds for the suspension of contact visiting rights shall be limited to the following:
    - a. the passing or attempted passing of contraband between an inmate and a visitor; or
    - b. socially unacceptable physical contact between an inmate and visitor (including sexual activities or assaultive behavior).

Note: The Department's policy on acceptable physical contact is set forth in Section VII-C above.

2. Criteria. When considering whether or not the contact visiting privileges of a visitor will be suspended, the Superintendent must consider the following criteria: length of inmate's unserved sentence, visitor's relationship to inmate, whether the violation appeared to be intentional or unintentional, whether allowing non-contact visiting would have a rehabilitative effect on the inmate, and whether there is a past history of visiting rule violations involving the same visitor or inmate.
3. Non-contact visitation. Non-contact visiting will be permitted during the suspension of contact visitation rights in the area of the facility designated for that purpose.

- C. Visitor Suspension or Revocation for a Period Less Than Six (6) Months. A Superintendent may limit, suspend or revoke a visitor's visitation rights, including contact visitation rights, for any period less than six (6) months for a violation of visiting rules and regulations which represents a threat to the safety, security, and good order of the facility pursuant to the procedures set forth below.

The lengths of time for which visiting may be suspended or revoked for various types of misconduct are set forth in Appendix A. Time penalties increase with repeated incidents of misconduct (see "Cumulation of Penalties" in Appendix A).

These procedures provide (1) written notice to both inmate and visitor when visiting privileges have been revoked or suspended, and (2) opportunity for the visitor and/or the inmate to address a written appeal to the Commissioner.

1. Notice. Upon suspension or revocation, the Superintendent shall notify the visitor in writing of his/her action. A copy of such notice and related documents must also be sent to the inmate.
  - a. The notice shall contain:
    - (1) the reason for the suspension or revocation;
    - (2) the duration of the suspension or revocation; and
    - (3) copies of all charges and reports of misconduct relating to the charges.
  - b. The visitor and the inmate shall also be notified of their right to appeal the decision of the Superintendent within twenty (20) days of receipt of the notice following the procedure set forth in C-2 (below).
2. Appeal. An appeal may be taken by the visitor and/or the inmate.
  - a. Such an appeal shall be addressed to the Commissioner and shall be in writing. The visitor or inmate may submit any written material he/she wishes to be considered.
  - b. The Commissioner or his designee shall render a written decision within twenty (20) days of receipt of the appeal as follows:
    - (1) the decision shall affirm, reverse, or modify the determination of the local facility;
    - (2) an affirmance shall be supported by a preponderance of the evidence; and
    - (3) the decision shall contain a statement of the evidence relied upon and a statement of the reasons therefore.

- D. Visitor Suspension or Revocation for a Period of Six (6) Months or More. A Superintendent may suspend or revoke a visitor's visitation privileges for a period of six (6) months or more for misconduct which represents a serious threat to the safety, security, and good order of the facility pursuant to the procedures set forth below.

The lengths of time for which visiting may be suspended or revoked for various types of misconduct are set forth in Appendix A. Time penalties increase with repeated incidents of misconduct (see "Cumulation of Penalties" in Appendix A).

These procedures provide (1) written notice to both visitor and inmate when visiting privileges have been revoked or suspended, and (2) opportunity for the visitor alone to initiate an appeal by requesting a hearing, or, alternatively, for the visitor and/or the inmate to address a written appeal to the Commissioner.

1. Notice. Upon such suspension or revocation, the Superintendent shall notify the visitor in writing of his/her action. A copy of the notice and related documents shall also be sent to the inmate.
  - a. The notice shall contain:

- (1) the reason for the suspension or revocation;
    - (2) the duration of such suspension or revocation; and
    - (3) copies of all charges and reports of misconduct relating to the charges.
  - b. The visitor shall be also be notified of his/her right to initiate an appeal by requesting a hearing within thirty (30) days of receipt of the notice following the procedures set forth in D-3 below. In addition, the visitor and the inmate shall be notified of the alternative right to address a written appeal to the Commissioner.
2. Appeal Based on Written Submission. Either the visitor or the inmate may address a written appeal of the Superintendent's decision to the Commissioner as outlined in Section C-2 above.
3. Appeal Based on Hearing. Only a visitor may request a hearing. If a hearing is requested, the Commissioner shall appoint an impartial hearing officer from outside the facility to conduct the hearing.
- a. Formal Charge. The formal charge shall consist of the Superintendent's notice to the visitor.
  - b. Counsel. Only the visitor may be represented by counsel.
  - c. Witnesses. The visitor may call witnesses on his/her behalf provided they are material, their testimony is not redundant, and so doing does not jeopardize facility safety, security, the good order of the facility, or correctional goals.
    - (1) If permission to call a witness is denied, the hearing officer shall provide a written statement of the reasons for such denial, including the threat to the facility safety, security, the good order of the facility, or correctional goals or why the proffered testimony was immaterial or redundant.
    - (2) Any witness shall be allowed to testify at the hearing in the presence of the visitor unless the hearing officer determines that so doing will jeopardize facility safety, security, the good order of the facility, or correctional goals.
      - (a) If permission to be present during the testimony of a witness is denied, the hearing officer shall provide a written statement setting forth the reasons for such denial, including the threat to facility safety, security, the good order of the facility, or correctional goals.
      - (b) Where a visitor is not permitted to have a witness present, such witness shall be interviewed out of the visitor's presence and such interview recorded.
      - (c) The witness's statement is to be made available to the visitor at the hearing unless the hearing officer determines that so doing would jeopardize facility safety, security, the good order of the facility, or correctional goals.
      - (d) If the witness's statement is not to be made available, the hearing officer shall provide a written statement setting forth the reasons for such denial, including the threat to facility safety, security, the good order of the facility, or correctional goals.
  - (3) A visitor may request witnesses by notifying the Hearing Officer no later than five (5) days prior to the hearing.
  - (4) A visitor may cross-examine adverse witnesses unless the hearing officer determines that so doing will jeopardize facility safety, security, the good order of the facility, or correctional goals.
- If permission to cross-examine is denied, the hearing officer shall provide a written statement stating the reasons for such denial, including the threat to facility safety, security, the good order of the facility, or correctional goals.
- d. Attendance at Hearing. The visitor shall be present at the hearing unless he/she refuses to attend. The inmate shall be present at the hearing if he/she is to be a witness unless the hearing officer determines so doing will jeopardize facility safety, security, the good order of the facility, or correctional goals.

- (1) If the inmate is denied permission to attend the hearing, the hearing officer shall provide a written statement setting forth the reasons for such denial, including the threat to facility safety, security, the good order of the facility, or correctional goals.
- (2) If an inmate is denied permission to attend the hearing as a witness, he/she shall be interviewed. The interview shall be recorded and made available to the visitor at the hearing unless the hearing officer determines that so doing would jeopardize facility safety, security, the good order of the facility, or correctional goals.

In such instance, the hearing officer shall provide a written statement setting forth the reasons for such denial, including the threat to facility safety, security, the good order of the facility, or correctional goals presented.

- e. Recording. The hearing shall be electronically recorded.
- f. Evidentiary Standard. The decision of the Superintendent shall be affirmed upon a finding supported by a preponderance of the evidence. The hearing officer shall set forth his decision in writing, stating the reasons therefore and the evidence relied upon. Such decision shall be effective twenty (20) days after issuance unless appealed by any party. The decision shall also notify the visitor and inmate of appeal procedures.
- g. Appeal of Hearing Officer's Decision. The decision of the hearing officer may be appealed to the Commissioner by either the inmate or the visitor. Such appeal must be taken within twenty (20) days of the date the decision was issued and must be in writing.
  - (1) The Commissioner shall issue a written decision within twenty (20) days of the filing of an appeal.
  - (2) Such decision must contain a statement of the reasons for the affirmance, modification, or reversal of the hearing officer.

E. Inmate Suspension/Revocation - Superintendent's Proceeding.

1. An inmate's rights to visit an approved visitor may be suspended or revoked because of visit-related misconduct after a Superintendent's Proceeding pursuant to 7 NYCRR Chapter V, Subchapter A.
2. The inmate may appeal such a suspension or revocation disposition by writing to the Commissioner following the procedures set forth in Section C-2 above. All other aspects of the disciplinary disposition must be appealed under the appeal procedures as set forth in 7 NYCRR Chapter V, Subchapter A.

F. Reconsideration of Revocation. In the event a visitor or inmate's visiting rights have been revoked pursuant to the procedures herein, such person may request a reconsideration of the revocation at any time after it has been in effect for one (1) year and on an annual basis thereafter.

1. The Superintendent shall evaluate such a request to determine if any factors exist which warrant a modification so as to permit visitation to resume at a specified time in the future. The criteria to be considered shall include but not be limited to:
  - a. the inmate's institutional record;
  - b. showing of special circumstances (e.g., age of visitor or inmate, serious illness, etc.);
  - c. length of inmate's unserved sentence; and
  - d. past history of violations.
2. The Superintendent shall advise the inmate and visitor of the results of his review by written decision, including the reasons therefore.

G. Visiting Records.

1. A record must be kept on the visitor's card of all penalties imposed, including warnings and terminations of visits. In the event future misbehavior occurs, some record is necessary in order to apply the "penalty chart" (Appendix A) properly.

After one (1) year has elapsed since the imposition of a penalty, the visitor or inmate may apply to the Superintendent to have the penalty removed from the record.

- a. When considering whether or not to remove the penalty from the record, a Superintendent or his designee must consider the following criteria: seriousness of the offense, length of inmates unserved sentence, relationship of the visitor to the inmate, past history of visiting rules violations involving the same inmate or visitor, and the inmate's institutional record.
  - b. The decision of the Superintendent shall contain a statement of the evidence relied upon and a statement of the reason for the decision.
2. In addition to the recording of any penalties, warnings, and terminations of visits for visit-related behavior or misconduct, notations shall be made on an inmate's visiting records whenever the inmate has been found guilty under 7 NYCRR Chapter V of drug related misbehavior or possession of contraband.  
These notations shall alert staff to take appropriate measures to prevent smuggling of drugs, drug paraphernalia, or other contraband during visits.
3. Notations on these visiting records, as well as names of other visitors on an inmate's visiting card, shall not be disclosed to any visitor. When a visitor is required to sign the card or visiting record, the visitor should not be able to read the contents of the card. An overlay may be used to cover all but the signature block.
4. If disciplinary charges against an inmate, or charges of visit-related misconduct against a visitor or inmate have been dismissed or reversed, all references to the alleged misconduct must be expunged from the inmate's visiting card.

## APPENDIX A - "PENALTIES FOR VISIT-RELATED MISCONDUCT"

NOTE: Cumulation of Penalties: Penalties increase for repeated incidents of the same type of misconduct as shown in the chart below. Furthermore, if an inmate and visitor have been involved in two or more unrelated types of misconduct with each other within a one-year period, an additional cumulative suspension of all visiting privileges may be imposed. The one-year period shall run backward from the date of the most recent pending misconduct. The additional suspension may be for up to six months, but must not exceed the total penalty permitted for the equivalent number of repetitions of the least serious misconduct recorded within that one-year period.

<b>TYPE OF MISCONDUCT</b>	<b>OCCURRENCE</b>	<b>1ST OFFENSE</b>	<b>2ND OFFENSE</b>	<b>3RD OFFENSE</b>
-Failure of Visitor to Possess Proper Identification	Visit Denied			
-Presentation of False Identification				
(a) <u>Regular Visiting Room</u>		Up to (1) Mo. Susp. of Visitation Rights	Up to (3) Mos. Susp. of Visitation Rights	Up to (6) Mos. Susp. of Visitation Rights
(b) <u>Family Reunion Program</u>		Up to (3) Mos. Susp. of Visitation Rights	Up to (6) Mos. Susp. of Visitation Rights	Up to (1) Yr. Susp. of Visitation Rights
-Visitor Not On Inmate's Visiting Record	Visit Denied			
-Visitor Apparently Under Influence of Alcohol or Drugs	Visit Denied			
-Failure to Comply with Instructions at Gate Area (e.g.: refusal to undergo strip frisk)	Visit Denied			
-Visitor or Inmate Becomes Apparently Under Influence of Alcohol or Drugs During Visit	Immediate Term. of visit and	Up to (1) Mo. Susp. of Visitation Rights	Up to (3) Mos. Susp. of Visitation Rights	Up to (1) Yr. Susp. of Visitation Rights
-Cross-Visiting by Unapproved Parties		Warning	Immediate Term. of Visit	Up to (3) Mos. Susp. of Visitation Rights
-Refusing to Follow Instructions of Facility Staff and Facility Rules		Warning	Immediate Term. of Visit	Up to (3) Mos. Susp. of Visitation Rights
-Unacceptable Physical Contact		Warning	Immediate term. of visit	Up to (3) Mos. Susp. of Contact Visitation Rights
				<u>4TH OFFENSE</u> Up to (6) Mos. Susp. of Visitation Rights
-Unacceptable Physical Conduct (intercourse, sodomy)	Immediate term. of visit and	Up to (3) Mos. Susp. of Contact Visitation	Up to (6) Mos. Susp. of Contact Visitation Rights	Up to (1) Yr. Susp. of Visitation Rights
-Assault on Facility Staff, Inmate or other visitors	Immediate term. of visit and	Up to (1) Yr. Susp. of Visitation Rights depending upon assault, injuries sustained and relationship of visitor to inmate and perpetrator to visitor		

<b>TYPE OF MISCONDUCT</b>	<b>OCCURRENCE</b>	<b>1ST OFFENSE</b>	<b>2ND OFFENSE</b>	<b>3RD OFFENSE</b>
<b>-Attempt to Introduce Contraband</b>				
(a) <u>Money</u> (intent unlikely)		Warning	Immediate Term. of Visit	Up to (3) Mos. Susp. of Visitation Rights
(intent likely) Immediately Term. and Rights	Visit Denied or of Contact Visitation	Up to (3) Mos. Susp. of Visitation Rights	Up to (1) Yr. Susp. Rights	Revocation of Visitation Rights
(b) <u>Alcohol</u> (intent unlikely)	Visit Denied or Immediately Term. and	Up to (3) Mos. Susp. of Contact Visitation Rights	Up to (3) Mos. Susp. of Visitation Rights	Up to (1) Yr. Susp. of Visitation Rights
(intent likely) Immediately Term.	Visit Denied or of Contact Visitation and	Up to (6) Mos. Susp. of Visitation Rights Rights	Up to (6) Mos. Susp. Rights	Revocation of Visitation Rights
(c) <u>Non-Narcotic Drugs</u> (intent unlikely)	Warning (Gate Area only) and	Up to 2 Mos. Susp. of Contact Visitation Rights	Up to (3) Mos. Susp. of Contact Visitation Rights	Up to (3) Mos. Susp. Of Visitation Rights
(d) <u>Marijuana</u> (1) 25 grams or less (intent unlikely)	Visit denied or immediately term. and	Up to (6) mos. Susp. of Contact Visitation Rights	Up to (1) yr. Susp. of Contact Visitation Rights	Up to (1) yr. Susp. of Visitation Rights
(2) 25 grams or less (intent likely)	Visit denied or immediately term. and	Up to (1) yr. Susp. of Contact Visitation Rights	Up to (1) yr. Susp. of Visitation Rights	Revocation of Visitation Rights
(3) More than 25 grams	Visit denied or immediately term.	Up to (1) yr. Susp. of Contact Visitation	Up to (1) yr. Susp. of Visitation Rights	Revocation of Visitation Rights
(e) <u>Narcotic &amp; other dangerous drugs</u> (intent unlikely)	Visit denied or immediately term. and	Up to (1) yr. Susp. of Contact Visitation Rights	Up to (1) yr. Susp. of Visitation Rights	Revocation of Visitation Rights
(intent likely)	Visit denied or immediately term. and	Revocation of Visitation Rights		
(f) <u>Item which is readily capable of being used to cause Death or Serious Injury as de- fined in 7 NYCRR Sec. 200.5(a)(2) (except dangerous drugs)</u>	Visit denied or immediately term. and	Revocation of Visitation Rights		
(g) <u>Item with Intent to Aid in an Escape.</u>	Visit denied or immediately term. and	Revocation of Visitation Rights		
(h) <u>Any Other Item not permitted within a Correctional Facility (intent to aid in escape, intoxication or provide weapon unlikely) e.g.: cooked food</u>	Immediate term. of visit and	Up to (1) Mo. Susp. of Contact Visitation Rights	Up to (3) Mos. Susp. of Contact Visitation Rights	Up to (3) Mos. Susp. of Visitation Rights