

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Parts 524, 541, 544, and 571****[BOP-1057-F]****RIN 1120-AA56****Editorial Amendments for Classification and Program Review; Inmate Discipline; Education, Training, and Leisure Time Program Standards; and Release Gratuities****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending four of its regulations to remove obsolete provisions, update cross-references, or to clarify procedures. More specifically, the regulations for classification and program review are amended by removing procedures for the preparation of a now obsolete form (the staff summary report) and to include a cross reference to regulations for pretrial inmates; the regulations on inmate discipline are amended by substituting control unit programs for references to United States Penitentiary, Marion; the regulations on education, training, and leisure time program standards are amended to update the reference to the release preparation program; and the regulations for release gratuities are amended to minimize confusion regarding statutory limits on maximum amounts. These amendments are intended to maintain the efficient operation of the institution and the Bureau.

EFFECTIVE DATE: September 10, 1996.**ADDRESSES:** Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.**FOR FURTHER INFORMATION CONTACT:** Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on classification and program review; inmate discipline and special housing units; education, training, and leisure-time program standards; and on release gratuities, transportation, and clothing. A final rule on classification and program review (28 CFR part 524, subpart B) was published in the Federal Register on July 3, 1991 (56 FR 30676) and was amended on August 5, 1992 (57 FR 34662) and on June 27, 1995 (60 FR

33320). A final rule on inmate discipline and special housing units (28 CFR part 541, subpart B) was published on January 5, 1988 (53 FR 197) and was amended on October 17, 1988 (53 FR 40686), September 22, 1989 (54 FR 38987 and 39095), February 1, 1991 (56 FR 4159), July 10, 1991 (56 FR 31530), June 2, 1992 (57 FR 23260), and July 21, 1993 (58 FR 39095). A final rule on education, training, and leisure time program standards was published on December 16, 1993 (58 FR 65852). A final rule on release gratuities, transportation, and clothing (28 CFR part 571, subpart C) was published on May 21, 1991 (56 FR 23480).

The regulations on classification and program review (§ 524.12(f)) require Bureau staff to prepare a summary for inmates applying for a transfer under the treaty transfer program, for study and observation cases, and for inmates for whom no presentence investigation is available. This information need no longer be required under regulations for classification and program review because equivalent information is obtained either as part of the court-ordered study and observation, by revised regulations issued for treaty transfer cases (see 28 CFR 527, subpart E), or is provided by the Probation Office in lieu of a Presentence Investigation Report. The Bureau is therefore removing paragraph (f) and that portion of the text in § 524.16 which had been pertinent to study and observation cases ("except for the preparation of a staff summary as noted in § 524.12(f) of this part"). A new § 524.17 has been added to refer to existing regulations pertinent to pretrial inmates. Additional editorial changes include the correction of a typographical error in § 524.12(c) and an updated reference in § 524.15 to the recently retitled Administrative Remedy Program.

The regulations on inmate discipline and special housing required that staff ordinarily within 90 days of an inmate's placement in post-disciplinary detention shall return the inmate (with the exception of inmates in the United States Penitentiary, Marion, or pretrial inmates) to the general inmate population or request transfer to a more suitable institution (§ 541.22(a)(6)(ii)). Further provisions covered review of the status of such inmates (§ 541.22(a)(6)(ii) and (iii)). Because of a mission change for the United States Penitentiary, Marion, (which had served as a control unit) this requirement is no longer technically correct, and the Bureau is therefore replacing the reference to that specific institution

with a generic reference to control unit programs. This revision obviates the need to make future adjustments to these regulations based upon changes in the location of a control unit program. Regulations for the operation of control unit programs are contained in 28 CFR part 541, subpart D.

The regulations for education, training, and leisure-time program standards are amended to update the reference in § 544.81(g) to the retitled release preparation program.

The regulations for release gratuities had noted that the maximum for a discretionary gratuity was \$500 and referenced 18 U.S.C. 3624(d) as the authorizing statute (§ 571.20). This statute pertains to offenders sentenced under the provisions of the Sentencing Reform Act (18 U.S.C. Chapter 227). Inmates sentenced under the former provisions of that Chapter continue to be subject to the statutory limitation of \$100 authorized by 18 U.S.C. 4281. In order to eliminate false expectations in those inmates governed by 18 U.S.C. 4281 as to the amount of a possible gratuity, the Bureau has reworded the provision to state that a discretionary gratuity may be granted up to the amount permitted by statute.

Because these amendments are administrative in nature and impose no additional restrictions on inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the Federal Register.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), does not have a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects in 28 CFR Parts 524, 541, 544, 571

Prisoners.

Peter M. Carlson,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), parts 524, 541, 544, and 571 in subchapters B, C, and D respectively, of 28 CFR, chapter V are amended as set forth below.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 524—CLASSIFICATION OF INMATES

1. The authority citation for 28 CFR part 524 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4046, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

§ 524.12 [Amended]

2. In § 524.12, paragraph (c) is amended by revising the phrase “at attend” in the third sentence to read “to attend”, and paragraph (f) is removed.

§ 524.15 [Amended]

3. Section 524.15 is amended by revising the phrase “Administrative Remedy Procedure” to read “Administrative Remedy Program”.

4. Section 524.16 is revised to read as follows:

§ 524.16 Study and observation cases.

Inmates committed to the custody of the U.S. Attorney General for purposes of study and observation are excluded from the provisions of this rule.

5. A new § 524.17 is added to subpart B to read as follows:

§ 524.17 Pretrial inmates.

Additional provisions pertinent to pretrial inmates are contained in § 551.107 of this chapter.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

6. The authority citation for 28 CFR part 541 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12,

1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

7. In § 541.22, paragraph (a)(6) (i), (iii), and (iv) are revised to read as follows:

§ 541.22 Administrative detention.

* * * * *

(a) * * *

(6) * * *

(i) Except for pretrial inmates or inmates in a control unit program, staff ordinarily within 90 days of an inmate's placement in post-disciplinary detention shall either return the inmate to the general inmate population or request regional level assistance to effect a transfer to a more suitable institution.

* * * * *

(iii) Staff in a control unit will attempt to adhere to the 90-day limit for an inmate's placement in post-disciplinary detention. Because security needs required for an inmate in a control unit program may not be available outside of post-discipline detention, the Warden may approve an extension of this placement upon determining in writing that it is not practicable to release the inmate to the general inmate population or to effect a transfer to a more suitable institution.

(iv) The appropriate Regional Director and the Assistant Director, Correctional Programs Division, shall review (for purpose of making a disposition) the case of an inmate in a control unit program not transferred from post-disciplinary detention within the 90-day time frame specified in paragraph (a)(6)(iii) of this section. A similar, subsequent review shall be conducted every 60–90 days if post-disciplinary detention continues for this extended period.

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PART 544—EDUCATION

8. The authority citation for 28 CFR part 544 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

9. In § 544.81, paragraph (g) is revised to read as follows:

§ 544.81 Program goals.

* * * * *

(g) Participate in a Release Preparation program; and

* * * * *

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 571—RELEASE FROM CUSTODY

10. The authority citation for 28 CFR part 571 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3565, 3568–3569 (Repealed in part as to offenses committed on or after November 1, 1987), 3582, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166, and 4201–4218 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5031–5042; 28 U.S.C. 509, 510; U.S. Const., Art. II, Sec. 2; 28 CFR 0.95–0.99, 1.1–1.10.

11. Section 571.20 is revised to read as follows:

§ 571.20 Purpose and scope.

It is the policy of the Bureau of Prisons that an inmate being released to the community will have suitable clothing, transportation to the inmate's release destination, and some funds to use until he or she begins to receive income. Based on the inmate's need and financial resources, a discretionary gratuity up to the amount permitted by statute may be granted.

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 544

[BOP–1031–F]

RIN 1129–AA44

Education Tests: Minimum Standards for Administration, Interpretation, and Use

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is rescinding its regulations on Minimum Standards for Administration, Interpretation, and Use of Education Tests. Guidelines established by test publishers are adequate for the administrative processing of education tests. Because correctional management issues pertinent to specific education programs are covered by separate Bureau regulations, there is no need to maintain duplicative regulatory provisions for education test standards.

EFFECTIVE DATE: September 10, 1996.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320