

Chapter DOC 309

APPENDIX

Note: DOC 309.06. Although visitation serves several important corrections objectives: maintenance of family and community ties, maintenance of morale and motivation of inmates, opportunity for the exchange of ideas and information, the department must regulate visitation of inmates consistent with resources, security and orderly operation of institutions.

Note: DOC 309.07. DOC 309.07 requires visitors as well as inmates to obey visiting rules.

Note: DOC 309.08. DOC 309.08 regulates visitation and the criteria for approval to visit. Each inmate is to have an approved visiting list. It may have only 12 people on it because institutions cannot accommodate unlimited numbers of visitors. Setting a limit by number has the virtue of permitting a substantial number of family visitors for those who desire them and of permitting people without family to include a substantial number of friends. It is an easier system to administer and, on the whole, seems fairer. It leaves to the inmate the choice of who may visit.

People who have not attained their 18th birthday who are the children of visitors or the inmate do not count against the 12. This is to enlarge the number of visitors and for the convenience of visitors. Children who have not attained the age of 18 are required to have written approval of a non-incarcerated custodial parent or legal guardian or there is a court order directing the visit.

Subsection (1) (d) is to prevent hardship to inmates with large families. This exception to the limit of 12 requires that only close family members be on the visiting list.

Subsection (1) (d) requires inmates to provide accurate and complete information. Under sub. (4), the warden, in determining whether to approve visitation, is required to consider whether the inmate has provided falsified, incorrect, or incomplete information.

In determining whether to approve visitation, sub. (1) (d) permits staff to acquire and utilize information from other sources other than that provided by the inmate.

Subsection (1) (f) is to limit the administrative burden that results from frequent changes of visitors on the list.

Subsection (3) permits the warden to place other limits on visitations, including, the number of visits, visitors, or the time or duration of visits.

Subsection (4) states the criteria for a warden approving or removing a person from a visiting list.

The purpose of sub. (6) is to make known to non-approved or no-contact visitors and inmates the reasons for non-approval or no-contact visiting and to permit review of the decision.

An example is the best way to illustrate what is contemplated under sub. (8). An inmate may have a relative in California who visits Wisconsin once a year. Such a person may be allowed to visit the inmate without being added to the inmate's visiting list.

Note: DOC 309.09. DOC 309.09 regulates some aspects of visiting by requiring institutions to make policies and procedures. Flexibility is needed in the rules relating to visitation because of the great differences among institutions. For example, at maximum security institutions with large populations, visitation can be during daytime, nighttime, and weekends, to accommodate the large numbers of visitors, the difficulty some visitors have getting to institutions except at night and on weekends, and the need to avoid unnecessary disruption of correctional programs.

On the other hand, some correctional centers are in remote areas of the state. The majority of inmates are working in the community during the day, and the camps are not heavily staffed. Therefore, visitation is feasible only on weekends and by special arrangement.

For the above reasons, the rules simply direct each institution to make policies and procedures and set some minimal requirements. In some cases, no change in present policy is necessary.

Subsection (3) requires the opportunity for a minimum of 9 hours of visitation per week per inmate in general population. Subsection (4) requires the opportunity for a minimum of one hour of visitation per week for inmate in segregation, except for the inmate in controlled segregation or observation. Visitation for inmates in controlled segregation and observation requires the approval of the warden.

Note: DOC 309.10. DOC 309.10 regulates visits by state officials, groups, attorneys, and clergy.

It is important that state officials and the public have access to correctional institutions. Such access develops an understanding of the correctional process, dispels misconceptions, and encourages the exchange of ideas and information among leaders and members of the public, inmates, and correctional staff. Such visits are not subject to the restrictions under DOC 309.09, but advance notice is necessary to accommodate groups. Such visitors should have virtually unlimited access to institutions, unless a security problem dictates that the visit be limited. Staff and visitors

should also be sensitive to the inmates' desire for privacy and try to be as unobtrusive as possible.

Attorneys and clergy are permitted access to their clients any time during business hours. No attempt is made to define "clergy." Superintendents are now making the decision as to who should be admitted based on the activity that ensues, not on the credentials of the leader of the activity. This same access is accorded law students and aides who have written authorization from their referring attorney. *Pell v. Procunier*, 417 U.S. 817 (1974). In emergencies, efforts should be made to allow lawyers and clergy to visit outside of business hours. Advance notice is desirable though not always possible. Of course, visits by attorneys, clergy, law students, and attorneys' aides do not count against allowable visitation hours.

This section is consistent with present policy and in substantial agreement with the ABA, standards 6.2 (d) and (f), and substantially satisfies ACA, standard 4306.

Note: DOC 309.11. No-contact visiting refers to the inability of the inmate and visitor to physically touch during a visit. DOC 309.11 (1) states the policy for no-contact visits. The need to decrease the risk to the security of the institution may require such action.

Subsection (2) permits the warden to impose no-contact visiting based on criteria in s. DOC 309.98 (4). No-contact visiting may be imposed up to a year. After the year, the inmate or visitor may request a review of the no-contact visiting.

Subsection (3) permits the security director or adjustment committee to impose no-contact visiting if the inmate is found guilty of violation of administrative rules, institution policies or procedures, or a violation of the listed rules. Sub. (6) permits no-contact visiting for up to a year if imposed by the adjustment committee and appealed to the warden.

Under sub. (4), if no-contact visiting is imposed on an inmate or a visitor, no-contact visits may apply to all visitors of the inmate and to all visits. Under sub. (5), if no-contact visiting is imposed on a visitor, it applies to all visits.

Subsection (8) permits no-contact visiting to be imposed for the period of time an inmate is in segregation.

Note: DOC 309.12. DOC 309.12 (2) provides for the termination, suspension, or rescission of visiting privileges for violations of administrative rules or institution policies or procedures relating to visiting.