

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>General Administration</u> STATEMENT NUMBER <u>5.23</u>
SUBJECT: DRUG USE MANAGEMENT POLICY PROPONENT: <u>Colon Forbes, Director</u> <i>Name/Title</i> <u>Commissioner's Office 271-5604</u> <i>Office Phone #</i>	EFFECTIVE DATE <u>4/14/16</u> REVIEW DATE <u>1/1/2018</u> SUPERCEDES PPD# <u>5.23</u> DATED <u>2/12/16</u>
ISSUING OFFICER: <hr/> <i>William L. Wrenn, Commissioner</i>	DIRECTOR'S INITIALS: _____ DATE: _____ APPENDIX ATTACHED: YES _____ NO _____
REFERENCE NO: See reference section on last page of PPD.	

I. PURPOSE:

To establish a process for drug use intervention and treatment.

II. APPLICABILITY:

To all staff and AHC, C1, C2 and C3 inmates.

III. POLICY:

It is the policy of the New Hampshire Department of Corrections (NHDOC) to address drug use by inmates under our direct supervision classified as a C1, C2, or C3 inmate or inmates in Administrative Home Confinement (AHC) by utilizing disciplinary action, evidence based programming and treatment services, or an appropriate combination thereof. This policy shall not include C4 or C5 inmates. Drug use by inmates who are classified as C4 or C5 shall be managed through the regular disciplinary policy along with any recommended evidence based programming and treatment services.

IV. PROCEDURE:

A. A first offense will be managed as a minor "29.2 B" violation through the disciplinary process (See PPD 5.25) with the following sanctions imposed:

a. Mandatory:

- i. 25 days loss of visitation (All Visitors)
- ii. Increased random drug testing (by security staff)

b. Three of the following additional sanctions will also be imposed

- i. 25 days loss of recreation
- ii. 25 days loss of canteen
- iii. 25 days loss of entertainment electronics, to include but not limited to, televisions, AM/FM radios w/headphones, MP3/MP4 players w/headphones & keyboards, cassette players, DS Gameboys w/headphones, and grandfathered electronics
- iv. 25 hours of extra duty
- v. 25 days loss of phone privileges

c. Do not impose:

- i. Loss of electronics (except as sited above)

- ii. Punitive segregation
 - iii. Loss of good time
 - d. Inmates with a history of drug use including a positive drug test within 90 days prior to the implementation of this policy shall be managed according to section B.
 - e. Inmates residing in a transitional housing unit will have a mandatory Licensed Alcohol Drug Counselor (LADC) evaluation and must follow recommendations. Phase level sanctions will also be imposed as outlined in the Community Corrections Offender Handbook.
- B. If an additional drug offense occurs within 90 days from the date of the previous offense, it will be managed as a major “29.2 A” violation through the disciplinary process with the following sanctions:
- a. Mandatory
 - i. One-year loss of entertainment electronics (All currently owned electronics shall be sent out from the facility and shall not be allowed to be returned to the facility) as pursuant to PPD 5.25.
 - ii. One-Year Loss of Visitation
 - 1. Immediate Family Members – Loss of contact visitation may extend for a period of 30 days from the date of disposition. After that time, non-contact visits will be in effect for the remainder of the one year period from the date of disposition. (PPD 7.09)
 - 2. All other Visitors – Loss of visitation will extend for a period of one year from the date of disposition. (PPD 7.09)
 - iii. Increased random drug testing (by security staff)
 - iv. 100 days loss of recreation
 - v. 100 days loss of canteen
 - vi. 100 days loss of good time
 - vii. 100 hours of extra duty
 - viii. 100 days loss of phone privileges
 - b. Do not impose
 - i. Punitive Segregation
 - c. Inmates who receive a “28-A” disciplinary infraction as outlined in PPD 5.25 will be managed through the disciplinary process in the same manner as a “29.2 A” infraction outlined in section IV. B. There will be no consideration given to timeframes or multiple infractions for those inmates who receive a “28-A”.
 - d. LADC Referral

The supervisor shall contact the on-site LADC (attachment 1) who will complete a substance use evaluation and assessment of the inmate within 15 working days to determine if the actions that resulted in the disciplinary report were proximately related to a substance use disorder or if the actions were behavioral in nature. Requests for an extension of this timeline may be made pursuant to PPD 5.25. If it is determined that the inmate’s actions were proximately related to a substance use disorder, the LADC will make a recommendation at that time on how to proceed via the *LADC Consultation to Disciplinary Process Form* (attachment 2). If the inmate’s actions are determined to be behavioral in nature, the investigating officer will consider any recommendations made by the LADC and shall proceed with the disciplinary process. The LADC will complete the *LADC Consultation to Disciplinary Process Form* and submit the form to the unit supervisor who shall make it a permanent attachment to the disciplinary report. If the LADC evaluation and assessment recommends medical treatment and/or program intervention, all sanctions that would be incurred through the disciplinary process shall be suspended, with the exception of the increased random drug testing by security and treatment staff, pending the successful completion of the NHDOC recommended Treatment Unit Services or the NHDOC approved substance use programs. The use of illicit drugs will not be an automatic upgrade in classification score while awaiting treatment services. If the inmate refuses treatment services, the supervisor will proceed

with the disciplinary process and upon a guilty finding, the inmate will be upgraded one step in classification.

- C. If it is discovered that the inmate has committed an additional drug offense (29.2 B) which is over 90 days from the date of the previous drug offense, and the inmate is not currently receiving services, it will be processed as a first offense and shall include a general referral pursuant to PPD 6.05 Behavioral Health Services to the on-site Licensed Alcohol and Drug Counselor (LADC) for triage as to the necessity for a substance abuse evaluation and/or assessment.
- D. Assessments with no referrals recommended may result in suspended sanctions being imposed.
- E. Substance use treatment and/or programming require meaningful participation, but participation is voluntary. However, refusing to actively and meaningfully participate in treatment or substance use programming will result in the suspended sanctions being imposed.
- F. If an inmate, while waiting for admission to or while participating in treatment services or approved substance use programming, is subjected to a drug test:
 - a. conducted by security staff which results in a positive screen for drug use, the inmate's positive test results shall be referred to the treatment team staff for their input into whether the violation should be processed as a major "A" violation and whether all suspended sanctions should be imposed. Treatment staff will utilize the LADC *Consultation to Disciplinary Process Form* as a means to document the recommendation. Subsequent, 29.2 B or 29.2 A offenses will be processed with only a guilty finding and no additional disciplinary sanctions will be suspended or imposed by security.
 - b. conducted by treatment staff which results in a positive screen for drug use, the inmate's positive test results shall be referred to security for informational and security purposes only. Security staff will take no disciplinary actions in response to positive results of the drug testing facilitated by the treatment staff, unless further action is otherwise recommended by treatment team because the treatment had been discontinued due to repeat non-compliance with the program and/or treatment services requirements. This restriction only relates to disciplinary actions pending as a result of the positive drug testing results and does not prevent security and/or investigations from initiating any necessary questioning of an inmate in a program or in treatment in connection with any investigation. A clinical member of the treatment team will complete a clinical progress note documenting the review of the positive urinalysis as well as the recommendation of the treatment team.
 - c. All drug testing results (positive and negative) will be entered in CORIS by the member of the Department administering a drug screen to offenders.
- G. Inmates will not be reclassified to a lower custody level until discharged from the programming/treatment services as recommended by this policy.
- H. All sanctions imposed for drug use related offenses will continue to be suspended upon successful completion of treatment or programs. Treatment or program termination will be documented by the treatment or program staff in the form of either an electronic behavioral health record discharge summary or CORIS note for program staff. This documentation will outline the actions taken to intervene prior to termination and the reason for termination and the actions of the offender during the process. The unit security staff will be provided notification of the treatment or program termination in order to proceed with a Pending Administrative Review (PAR) of the offender as well as scheduling a reclassification board. Treatment or program staff will provide a copy of the documentation of termination to the Hearings Bureau who will upon receipt impose the original suspended sanctions associated with the disciplinary report that initiated referral to treatment/programming.
- I. The misuse of prescribed medications or the use of illicit drugs will not be an automatic upgrade in classification and the inmate will be housed according to their classification score.
- J. An inmate who refuses to provide a urine sample or swab, or who provides a diluted urine sample shall be in violation of a 30A or 30.1A rule, and a one-step upgrade in classification may be imposed.
- K. If a C1 or C2 inmate has an additional drug offense which occurs within 90 days from the date of the previous drug offense, it will be managed as a major (29.2 A) violation through the disciplinary process with the sanctions as listed in this policy in section B. The LADC referral will determine the

need for treatment/programmatic intervention. Changes in housing will occur based on the recommendations of the LADC and participation of the offender in the process.

- L. The response to a positive drug test for an inmate on AHC may be to PAR the inmate pending reclassification provided there are aggravating factors that warrant the inmates return to the prison PAR as determined by the Chief Probation/Parole Officer.
- M. In those cases where an inmate pleads “Not Guilty” to the drug use violation, the positive sample will be preserved as evidence and processed by the New Hampshire State Police Forensic Laboratory for confirmation testing.

REFERENCES:

NH NHDOC PPD 5.25

FORBES/jc

LADC Triage of Disciplinary Report for Drug Use

Tina Pillsbury – LADC - NH State Prison for Men / SPU/RTU

Pat Perkins – LADC – Northern NH Correctional Facility Prison

Diane York – LADC – Northern NH Correctional Facility Prison

Kim Thurlow – LADC NH State Prison for Women

Updated 1/11/2016