

Notice of Development of Rulemaking

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-501.401 Admissible Reading Material

PURPOSE AND EFFECT: The rule is being modified to provide clarity on rejections of publications sent to inmates due to advertisements. The change removes rule language allowing publications containing advertisements otherwise prohibited by rule in instances where the advertisements are not the focus of the publication or prominent or prevalent throughout the publication. Additionally, the changes update the title of the Bureau Chief of Education and correct several formatting errors.

SUBJECT AREA TO BE ADDRESSED: Admissible Reading Material

RULEMAKING AUTHORITY: 944.09, 944.11, F.S.

LAW IMPLEMENTED: 944.11, F.S.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Office of the General Counsel, Attn. FDC Rule Correspondence, 501 South Calhoun Street, Tallahassee, Florida 32399, FDCRuleCorrespondence@fdc.myflorida.com.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-501.401 Admissible Reading Material

(1) through (14) No change.

(15) Rejection of Publications. An inmate can possess a publication that is not detrimental to the security, order, or disciplinary or rehabilitative interests of any institution of the Department or any privately-operated facility housing inmates committed to the custody of the Department. A publication will be rejected if:

(a) through (n) No change.

(o) The publication contains an advertisement promoting any of the following ~~where the advertisement is the focus of, rather than being incidental to, the publication, or the advertising is prominent or prevalent throughout the publication:~~

1. through 4. No change.

(p) No change.

(16) through (20) No Change.

(21) Inmate Grievance Appeals.

(a) through (b) No Change.

~~(c)(b)~~ When a publication is impounded or rejected pursuant to the criteria set forth in subsection (15) or (19) of this rule, an inmate must bypass the informal and formal institutional levels of review, and file a grievance directly with the Office of the Secretary as described in Rule 33-103.007, F.A.C.

1. through 6. No change.

(22) Literature Review Committee.

(a) A Literature Review Committee (LRC) will act as the final reviewing authority for appeals regarding publications rejected or impounded pursuant this rule. The committee will be composed of the following individuals:

1. Bureau Chief of Security Operations or his or her designee;
2. Bureau Chief of Policy Management and Inmate Appeals or his or her designee;
3. Bureau Chief of Education Programs or his or her designee.

(b) The Bureau Chief of Education Programs or his or her designee will serve as the chairperson of the LRC and will be responsible for coordinating all activities of the committee.

(c) Within 30 days of receipt of a Form DC5-101, Notice of Rejection or Impoundment of Publications, from an institution or facility or receipt of an inmate grievance appeal forwarded by the Bureau of Inmate Grievance Appeals, the Bureau Chief of Education Programs or his or her designee will schedule a meeting of the LRC to review the decision to reject or impound a publication or the appeal. The committee will consider the appeal (if

filed), the rule authority and reasons for the rejection or impoundment cited in Form DC5-101, the portions of the publication that have been cited as cause for the rejection or impoundment, and any other relevant material relating to the decision to reject or impound the publication or the appeal. The committee will affirm or overturn the decision to reject or impound the publication or approve or deny the appeal based upon the criteria set forth in this rule. Decisions of the committee will be by majority vote. Except as otherwise provided in this rule, the decision of the committee is final.

(d) through (f) No change.

(23) No change.

(24) Review by the LRC

(a) through (b) No change.

(c) The library services administrator will forward all information submitted by the publisher to the LRC for review at the next regularly scheduled LRC meeting. The Bureau Chief of Education Programs or his or her designee will provide the publisher written notification of the LRC's decision. The decision will also be communicated to all correctional institutions and facilities. A publisher may request reconsideration of a publication pursuant to subparagraph (24)(a)1. at any time.

(25) Special Meeting of the LRC.

(a) through (c) No change.

(d) The library services administrator will forward all information submitted by the publisher to the Bureau Chief of Education Programs who will schedule a special meeting of the LRC to consider the request.

(e) through (f) No change.

(g) The Bureau Chief of Education Programs or his or her designee will provide the publisher written notification of the LRC's decision. The decision will also be communicated to all correctional institutions and facilities.

(h)(f) If a publication is rejected at a special meeting of the LRC, the publisher may not request reconsideration at a special meeting of the LRC for a period of five calendar years from the date of the rejection.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 944.11 FS. History—New 10-8-76, Amended 3-3-81, 9-24-81, Formerly 33-3.12, Amended 6-9-87, 3-11-91, 12-17-91, 3-30-94, 11-2-94, 5-10-98, 10-20-98, Formerly 33-3.012, Amended 3-21-00, 8-10-00, 10-13-02, 7-2-03, 12-30-04, 9-5-05, 8-1-06, 6-16-09, 11-22-10, 6-9-20, _____.