

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Authority: 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4046, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.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Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12,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.

\* \* \* \* \*

##### **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

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 rescinding its regulations on minimum standards for the administration, interpretation, and use of education tests (28 CFR part 544, subpart B). A final rule on this subject was last published in the Federal Register February 21, 1990 (55 FR 6178).

In accordance with E.O. 12866, the Bureau is reviewing its regulations for the purpose of ensuring that it promulgates only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need. The Bureau has determined that separately stated regulations on minimum standards for the administration, interpretation, and use of education tests are no longer necessary. Applicability provisions contained in § 544.11 are duplicated in the regulations for specific education programs such as the literacy program (28 CFR part 544, subpart H) or English-as-a-Second Language program (28 CFR part 544, subpart E). Test procedures specified in § 544.12 either are covered by guidelines established by the test providers themselves or may be handled by staff as strictly administrative matters. Revisions to the regulations for

the literacy program have made obsolete the provisions in § 544.13 on the consequences of a refusal to take the Adult Basic Level Examination or other standardized test.

Because this rescission imposes no new restrictions on inmates and provides the Bureau with the flexibility to implement administrative procedures related to education tests, 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 Part 544

##### Prisoners.

Kathleen M. Hawk,  
*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), part 544 in subchapter C of 28 CFR, chapter V is amended as set forth below.

#### **SUBCHAPTER C—INSTITUTIONAL MANAGEMENT**

#### **PART 544—EDUCATION**

1. 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.

#### **§ 544.10—544.13 (Subpart B)—[Removed and Reserved]**

2. Subpart B consisting of §§ 544.10 through 544.13 is removed and reserved.

[FR Doc. 96–23044 Filed 9–9–96; 8:45 am]

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