



Ohio Administrative Code

Rule 5139-2-28 Search of visitors and staff at Ohio department of youth services institutions.

Effective: October 30, 2006

(A) This rule is to set guidelines for the search of visitors and employees at various institutions operated by the Ohio department of youth services (ODYS). These guidelines are intended to assure the ability of ODYS to prevent the introduction of weapons or other contraband into the institutions, while at the same time providing for only the minimum inconvenience and embarrassment necessary to accomplish this goal.

- (1) The overall responsibility rests with the director of ODYS through the respective deputy director.
- (2) The responsibility for the specific implementation of this rule rests with the managing officers.

(B) Visitors who are otherwise approved under the rules of the individual institution will be searched prior to their being allowed to enter the secure perimeter of the facility. Each institution will provide an area where searches of a visitor's person can be conducted.

(1) If, after visitation has commenced, institutional officials have reasonable grounds to believe a visitor is in possession of contraband, including a weapon, then that visitor will be required to submit to a further search. In these cases, the visitor should be escorted to an area isolated from the view of other visitors and youth where the search can be conducted to minimize embarrassment.

(2) All searches of a visitor's person under this rule will be confined to a metal detector and/or a "pat down" search, plus an examination of articles which the visitor may be carrying in his/her pockets, or articles on the visitor's person (handbags, wallets, etc.). All "pat down" searches of a visitor's person must be conducted by staff members of the same sex.

(3) If a visitor refuses to submit to a search at any time, that visitor will be required to leave the institution premises and further visitation privileges may be denied where it is deemed necessary. ODYS staff should not argue with, or agitate visitors regarding searches, but it must be made clear that visitation privileges can and will be terminated where a visitor fails to cooperate with staff



members. Termination of the visitation privileges is the sole action which a staff member may take against a visitor under this rule. (The individual in charge of the institution may exercise the police power granted by section 2921.37 of the Revised Code, to arrest an individual for violation of section 2921.36 of the Revised Code.). If a visitor refuses to leave the premises when requested to do so, the state highway patrol should be summoned for assistance.

(C) All persons entering an ODYS institution will be required to submit to a metal detector search to include emptying of pockets and a search of all bags, boxes entering with that person. ODYS has a compelling interest in maintaining institutions free of contraband and weapons. Employees should be aware that these search procedures are a part of the conditions of their employment and it is expected that their cooperation will be forthcoming. Failure to submit to a search pursuant to this rule shall be considered adequate cause for the dismissal of an employee.

(1) An employee at a correctional facility shall be subject to further search if the institution's superintendent, or his designee, determines that there is probable cause to believe that the employee is in possession of a weapon or other contraband. "Probable cause" as used in this rule shall mean that the evidence presented leads to the reasonable belief that the employee is in possession of contraband or a weapon. A finding of probable cause shall be based upon reliable, probative evidence, which may include hearsay and other information or evidence which would not generally be admissible in a court of law. The superintendent or his designee shall set forth in writing the evidence relied upon in making his finding of probable cause as soon as practicable, after such finding is actually made.

(2) Once the finding of probable cause is made, the employee shall be subject to search at the direction of the superintendent, or his designee. The highway patrol will be summoned and they will send an officer who will be available to assure an orderly process and to take the employee into custody if charges are to be filed. ODYS staff will be responsible for physically conducting the search. All searches for cause of an employee shall be conducted by a staff member of the same sex. If an employee refuses to submit to a search, no physical coercion shall be used but the employee shall be ordered to leave the premises immediately and will be subject to disciplinary action, up to and including dismissal.

(3) In most cases no action will be taken prior to the arrival of the highway patrol; however, in cases



where time is of the essence and where there is no time to await the arrival of the highway patrol, an expedited procedure should be used. This expedited procedure should be used, for example, where there is clear and convincing evidence that the employee is in possession of contraband and, further, intends to destroy or distribute such contraband before the patrol could reasonably be expected to arrive. In these types of cases, where exigent circumstances exist, the state highway patrol should be summoned immediately and then ODYS staff should proceed in the following manner. The individual employee should be initially escorted to an area isolated from the view of other employees and youth in order to avoid any unnecessary embarrassment. Where practical, a union representative, or other suitable employee witness should also be present. Once the employee is isolated, he will be "patted down" to assure that there are no weapons on his person. No further search should be conducted by ODYS staff until the arrival of the highway patrol. The employee may be detained in this area for a reasonable time until the arrival of the highway patrol.

(4) Once a highway patrol officer arrives, he will assure an orderly process and observe any further search which is deemed necessary. In no case shall an employee be detained against his will nor physically compelled to submit to a search by ODYS staff. If an employee refuses to be searched or to remain under observation until the highway patrol arrives, the employee should be advised that he will be subject to disciplinary action up to and including dismissal, and required to immediately leave the premises.

(5) In cases where there has been a finding of probable cause by the superintendent or his designee that an employee possesses a weapon, and there is further reason to believe that the employee intends to harm himself or others in the immediate future, ODYS staff should proceed in the following manner. The Ohio highway patrol should be summoned immediately and the suspected employee should be isolated as much as possible and as inconspicuously as possible. The employee can be isolated by either moving him away from other individuals or by moving other individuals away from him. Care must be taken so that whatever action is undertaken to isolate the employee is inconspicuous and does not arouse the employee's suspicion and possibly precipitate an incident or confrontation. The superintendent must use his own best judgment in this type of situation and the safety of the youth, visitors and other employees must always be of paramount importance. No attempt should be made to search the employee prior to the arrival of the patrol and, as always, upon their arrival the patrol shall be in charge of the matter and further direction will come from them.



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DOCUMENT #275980

(D) Any employee who is subjected to a search under this rule may request that the action of the superintendent or other staff members be reviewed through the existing grievance procedure. Since the superintendent or his designee will necessarily be the subject of such grievance, the grievance will proceed directly to the fourth level (director level review) for consideration.