



**Office of Legislative
Corrections Ombudsman**

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Visitor Restrictions, Hearings and Appeals

The following information is based on the following Michigan Department of Corrections Policy Directive 05.03.140 “Prisoner Visiting.”

Restrictions: 90-day and Permanent:

1. **90-day Restrictions:** A visit shall be terminated or disallowed and the prisoner/visitor notified the facility will be requesting a 90-day restriction of the visitor’s visits (with ALL prisoners) if the visitor:
 - a. Makes a false statement with respect to visiting;
 - b. Damages or attempts to damage MDOC property;
 - c. Engages in disruptive behavior while on MDOC property; or
 - d. Removes or attempts to remove any item from the institution that is not authorized by the institution.
 - e. NOTE: these need not be in connection with a visit.
2. **Permanent Restrictions:** A visit shall be terminated or disallowed and the prisoner/visitor notified that the facility will be requesting a permanent restriction if:
 - a. The visitor smuggles, conspires to smuggle, or attempts to smuggle any item into or out of the facility. State Police will be notified if the item is believed to be illegal contraband;
 - b. The visitor assaults staff or others or threatens them with physical harm;
 - c. The visitor assists, conspires to assist, or attempts to assist, a prisoner to escape;
 - d. The prisoner or visitor touches or exposes the breasts, buttocks, or genital area during a visit; or
 - e. The visitor has a pending felony or misdemeanor charge or has been found guilty of a felony or misdemeanor that occurred in connection with a visit. Restriction will be removed if the visitor provides proof the charge has been dismissed or the charge resulted in a not guilty finding.
 - f. NOTE: a-c above do not need to be in connection with a visit.
3. In either type of restriction, the visitor shall be temporarily restricted from all visits pending a visitor restriction hearing.

Notice and Hearing Procedures:

1. If both the prisoner and visitor were involved in the conduct that led to the proposed restriction:
 - a. Prisoner receives a copy of the Notice of Proposed Visitor Restriction and the major misconduct report.
 - b. The visitor shall be sent the Notice of Proposed Visitor Restriction, a copy of the misconduct report, and notice of the date of the hearing via first class mail to the address the visitor provided at the time of the visit.
 - c. Major misconduct and visit restriction hearings should be on the same day, if possible.
2. If only the visitor was involved in the conduct, the visitor and the prisoner get the Notice of Proposed Visitor Restriction and notice of the date of the hearing. The hearing investigator shall obtain written statement from prisoner to be presented at the hearing.
3. A hearing investigator is assigned to all visitor restriction hearings.
4. The hearings are conducted by a Hearing Officer from State Office of Administrative Hearings and Rules.
5. The hearing shall be conducted within 30 business days after the date that notice of the hearing is mailed or given to the visitor, unless the Hearing Officer determines there is good cause for delay, or relevant time requirements are waived by the visitor or prisoner.
6. If Hearing Officer does not uphold the restriction, or if it is not conducted within the required time frame, the temporary restriction shall be removed and visits restored immediately.
 - a. The Warden can seek a re-hearing.
7. If the restriction is upheld, the visitor restriction is entered into the computerized visitor tracking system.

Appealing and Removing Visitor Restrictions:

1. After consultation with the Director, the Correctional Facilities Administration (CFA) Deputy Director may authorize removal of a permanent visitor restriction upon written request of the restricted visitor or the Warden, or on his/her own initiative.
2. A restriction shall not be removed until at least one year after the date of the incident.
3. A restriction shall not be removed for 3 years if it was a result of the following conduct:
 - a. Smuggling, conspiring to smuggle, or attempting to smuggle a controlled substance, alcohol, a weapon, escape paraphernalia, cell phone, or other communication device or money over \$10 into a facility;
 - b. Assault of, or threatening to assault, staff or others;
 - c. Assisting, or attempting to assist, a prisoner to escape; or
 - d. A felony conviction for the behavior by the prisoner or visitor which resulted in the visitor restriction.
4. Seeking removal: A restricted visitor may request removal of a restriction by sending a written request to the Warden of the facility where the prisoner is located. If the visitor is eligible for removal of the restriction pursuant to 05.03.140, the Warden shall make a written recommendation to the CFA Deputy Director, who then makes a determination. If the removal is

denied, the CFA Deputy Director informs the Warden when visitor can reapply and the Warden informs the visitor of the decision.

Director Restriction of all Prisoner Visits:

1. Director may restrict all of a prisoner's visits if the prisoner is convicted or found guilty of any of the following:
 - a. Felony/misdemeanor occurring during a visit;
 - b. Major misconduct associated with a visit;
 - c. Escape, attempted escape, or conspiracy to escape; or
 - d. Two or more violations of the major misconduct charge of substance abuse; includes failure to submit to substance abuse testing.
2. The Warden must submit the recommendation to the CFA Deputy Director no later than 14 calendar days after the above convictions/findings. If the Deputy Director agrees, the proposed restriction is submitted to the Director for final determination.
3. If a restriction of this nature is upheld, the prisoner can still see his/her attorney and qualified clergy.
4. Removal of Director Restriction: The Director may remove a restriction upon written request of the Warden or prisoner, except:
 - a. It shall not be removed if it is based on a felony or misdemeanor that occurred during a visit or if it is based on escape, attempted escape, or conspiracy to escape associated with a visit.
 - b. It shall not be removed for 2 years if the restriction is based on 2 or more violations of major misconduct charge of substance abuse, if at least one was for a substance other than alcohol.
 - c. It shall not be removed for 6 months if the restriction resulted from: a major misconduct associated with a visit, an escape (including attempted and conspiracy) not associated with a visit, or 2 or more substance abuse major misconducts for alcohol.
5. If a prisoner is eligible for removal of restriction imposed by Director, the prisoner may request removal by sending a written request to the Warden, which is then referred to the Director.