

TITLE III
COMMUNITY-BASED CORRECTIONS
CHAPTER 40
COMMUNITY-BASED CORRECTIONS ADMINISTRATION
[Prior to 3/20/91, Corrections Department[291]]

201—40.1(905) Title III definitions.

“Accreditation” shall mean certifying that a judicial district department of correctional services is in compliance with applicable state and federal laws and with applicable portions of the Iowa Administrative Code, which compliance is determined by the department of corrections reviewing the bylaws, policies, procedures and practices of the judicial district department of correctional services.

“Board of directors” shall mean the same as district board as defined in Iowa Code section 905.3.

“Community service” shall mean unpaid public service as a condition of probation established pursuant to Iowa Code chapter 907 or in lieu of restitution as authorized in Iowa Code chapter 910.

“Conditions of probation” shall mean the same as defined in Iowa Code section 907.6.

“Contraband” shall mean weapons, alcohol, drugs, money, obscene materials, or material advocating disruption of or injury to clients, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, or materials which are used in the production of drugs or alcohol or used in conjunction with the taking of illicit drugs.

“Curfew hours” means those hours between 12 midnight and 6 a.m.

“Deferred judgment, deferred sentence or suspended sentence” shall mean the same as defined in Iowa Code section 907.3.

“Deputy director” shall mean the deputy director for community-based corrections (CBC) of the department of corrections.

“District department” shall mean the judicial district department of correctional services as defined in Iowa Code section 905.2.

“District director” shall mean the director of a judicial district department of correctional services.

“Executive committee” shall mean the same as defined in Iowa Code section 905.3(2).

“Immediate family” means spouse, child, parent, sibling, natural grandparent, stepparent, legal guardian, or an individual with whom the offender lived and who was responsible for the offender while the offender was a minor for a period of at least one year.

“Medical practitioner” means medical doctor, osteopathic physician, physician assistant or nurse practitioner.

“Ongoing site visits” means any visit by the deputy director, the deputy director’s designee or representatives of the office of the state auditor which shall be to assure continuing compliance with the Code of Iowa and the Iowa Administrative Code or to follow up on areas designated as needing improvement based on corrective action plans from the previous accreditation review period, and which may be conducted at any time during the five-year interim following the most recent team review.

“Parole” means the same as defined in Iowa Code section 906.1.

“Parole agreement” shall mean the same as defined in Iowa Code section 906.11.

“Parole plan” means a document listing place of employment, residence and the supervising parole officer.

“Presentence investigations” shall mean the same as defined in Iowa Code sections 901.2 and 901.3.

“Pretrial release” shall mean the same as defined in Iowa Code section 811.2.

“Probation” shall mean the same as defined in Iowa Code chapter 907.

“Probation agreement” shall mean the same as defined in Iowa Code section 907.6.

“Probation service” shall mean the same as defined in Iowa Code section 907.2.

“Rehabilitative objectives or purposes” means activities designed to further the reintegration of the offender into the community as a productive, law-abiding citizen. Activities deemed to serve rehabilitative objectives shall include, but not be limited to, family visits, seeking employment, supervised recreational activities, shopping trips, counseling/consultation sessions, educational programs and activities, vocational training and religious activities.

“Residential services” shall mean housing facilities providing 24-hour supervision operated pursuant to Iowa Code section 905.7(1).

“Restitution plan of payment and plan of restitution” shall mean the same as defined in Iowa Code chapter 910.

“Supervision” shall mean supervision during the probationary period as defined in Iowa Code section 907.8.

“Team review” means a five-year review of overall program, policies and procedures for compliance with the Code of Iowa and the Iowa Administrative Code by one or more persons designated by the deputy director.

“Technical violation” means a noncriminal violation of the conditions of parole.

This rule is intended to implement Iowa Code section 905.7.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter; ARC 5247C, IAB 11/4/20, effective 12/9/20]

201—40.2(905) Accreditation.

40.2(1) The deputy director of the department of corrections shall be the accrediting authority. The decisions of the deputy director shall be final except as provided in Iowa Code chapters 17A and 905.

40.2(2) The deputy director shall conduct or assign staff the responsibility to conduct the five-year team review for accreditation purposes.

40.2(3) The deputy director shall make or assign staff to make ongoing site visits during the five-year interim following the most recent team review in order to follow up on areas designated as needing improvement based on corrective action plans from the previous accreditation review period.

40.2(4) The five-year team review shall include a complete review of the following:

a. District department structure as provided in Iowa Code chapter 905.

b. Bylaws, policies and procedures of the board and the district department.

c. Programs mandated by the Code of Iowa and any special programs approved by the department of corrections. Programs shall comply with program-specific standards developed and approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders, i.e., domestic abuse and sex offender treatment.

d. Business practices of the district department including the use of acceptable accounting procedures and the receipt and expenditure of funds. Any reports of the office of the state auditor and recommendations contained in those reports, as well as evidence of compliance with those recommendations.

e. Any regular or special evaluations of the services provided by the district department.

The five-year team review shall be conducted as provided in the “accreditation standards for community-based corrections” and any program-specific standards, which shall be open for public inspection at the offices of the department of corrections. A proposed draft of these standards will be made available to the districts 180 days prior to the five-year team review. The accreditation and program-specific final standards, and any changes in the standards, shall be made available to the district departments at least 90 days before the five-year team review.

40.2(5) The results of any five-year team review will be reported to the deputy director, who shall review the results, and when a district is in adequate compliance with the Code of Iowa, the Iowa Administrative Code and the accreditation standards, the deputy director shall issue a certificate of accreditation for the following five years. When a district is not in adequate compliance as provided in the accreditation standards, the deputy director will notify the chairperson of the district board and the district director of the specific deficiencies and allowable time frames for correcting the deficiencies. At the end of the period of time for bringing the deficiencies into compliance, the deputy director shall award a certificate of accreditation or shall notify the district board and proceed as provided in Iowa Code section 905.9.

40.2(6) The ongoing site review shall include periodic assessments of the district departments and its programs as set out in 40.2(4) and shall be designed to provide evidence of continuing compliance. If at any time during the five-year period, following the most recent team reviews, the deputy director, through information gathered in ongoing site reviews, concludes that the district department is no longer

in adequate compliance may conduct or order an interim team review. If in the team review the evidence indicates serious noncompliance, the deputy director may proceed as provided in 40.2(5).

This rule is intended to implement Iowa Code sections 905.7 and 905.9.
[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter; ARC 5247C, IAB 11/4/20, effective 12/9/20]

201—40.3(904) Investigations. The deputy director of the department of corrections may investigate charges of abuse, neglect, or mismanagement on the part of a judicial district department of correctional services and its employees. The deputy director may request the director of the department to exercise authority pursuant to Iowa Code sections 904.402 to 904.405.

This rule is intended to implement Iowa Code sections 904.402 to 904.405.

201—40.4(905) District board of directors.

40.4(1) The board of directors shall adopt bylaws as prescribed in Iowa Code section 905.4(1).

40.4(2) The board of directors shall establish minimum qualifications for the position of the district director which shall include, but not be limited to, those set out in Iowa Code section 905.6.

40.4(3) The board of directors shall select the district director of the overall community-based corrections program, who shall serve at the board's pleasure and the board shall set the director's salary consistent with Iowa Code section 905.4(2).

40.4(4) The board of directors shall set policies and ensure procedures are developed governing the expenditures of funds which are in compliance with the requirements of the department of corrections and the Code of Iowa.

40.4(5) The board of directors shall set policies and ensure procedures are developed governing the personnel employed by the judicial district department of correctional services.

40.4(6) The board of directors shall establish policies and ensure procedures are developed governing formal communications between the board and the staff.

40.4(7) The board of directors shall establish policies and ensure procedures are developed governing the training of staff.

40.4(8) The board of directors shall approve a table of organization reflecting current staffing of the judicial district department of correctional services.

40.4(9) The board of directors shall annually approve the budget and action plan of the judicial district department of correctional services which shall include the projected expenditures by program and identify the following source of revenue: (a) state purchase of services contract, (b) federal and local grants or contracts, (c) residential client fees, (d) county support, (e) interest, (f) other miscellaneous revenues.

40.4(10) One or more project advisory committees shall be established in accordance with Iowa Code chapter 905. The functions of the advisory committee(s) shall include, but need not be limited to, participation in and review of the district department's planning and program activities.

40.4(11) The judicial district board of directors shall decide whether to allow employees of the judicial district department of correctional services to carry a firearm while in performance of official duties. If the board allows employees to carry firearms, the judicial district board shall establish policies and ensure that procedures are developed governing the authorization of probation/parole officers and reserve peace officers subject to Iowa Code chapter 80D to carry a firearm while in performance of their duties. Policy shall specify when the possession of a weapon is appropriate and who may approve authorization to carry a weapon.

40.4(12) Through their approval, the director, Iowa department of corrections, and the Iowa corrections board shall ensure that the director of the district department of correctional services, of districts authorized to carry firearms, has written standards and procedures which regulate the safe conveying and use of firearms. The standards shall include, but not be limited to, the following:

a. Probation/parole officers and reserve peace officers subject to Iowa Code chapter 80D must have successfully completed the Iowa law enforcement academy curriculum prior to receiving authorization to carry a firearm. Probation/parole officers authorized to carry firearms prior to February 9, 2005, will be exempt from this paragraph.

b. An officer will not be given permission to carry a weapon unless the officer has successfully completed the requirements of Iowa Code chapter 724.

(1) In addition, the officer must show proficiency in the actual firing of a firearm as required for qualification on a qualified training course firing range.

(2) Officers holding valid permits to carry firearms shall requalify annually.

c. Weapons shall not be exhibited or used except in a perilous, life-threatening situation. Drawing, pointing, or discharging a weapon for effect or warning is prohibited.

d. The judicial district director shall maintain a list of all officers granted permission to carry a weapon. The list shall include the officer's name, permit number, dates of permit, place and dates of training, and caliber of weapon.

e. Permission granting an officer the right to carry a judicial district-purchased weapon shall be in writing.

f. Any officer who discharges a weapon shall submit a written report of the incident through the department of corrections critical incident reporting policy. The judicial district director shall file a report of the incident, the investigation, and the results of the investigation with the deputy director of CBCs within five days of the occurrence.

g. No officer shall be required to carry a firearm; however, refusal may affect job assignments.

h. Firearms shall be secured under lock and key when not in use in a location inaccessible to nonauthorized personnel.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

201—40.5(905) District director.

40.5(1) The department shall have procedures governing the personnel employed by the judicial district, and a system of fiscal accountability which ensures compliance with the requirements of the department of corrections and the Code of Iowa.

40.5(2) The director shall provide electronic access to the Code of Iowa and supplements thereof, the Iowa Administrative Code, and applicable federal regulations and shall prepare and maintain current a department of correctional services policies and procedures manual which shall include, but not be limited to, the following:

a. The written bylaws of the board of directors of the department of correctional services,

b. All departmental policies and procedures,

c. Written standard operating procedures governing the staff in the provision of services to clients,

d. A table of organization reflecting all positions employed within the department of correctional services,

e. Job descriptions of all positions employed within the department of correctional services,

f. A current pay plan.

40.5(3) The department shall ensure that an employee manual is readily accessible to all employees and shall include information which provides necessary guidance for the performance of the duties outlined in the employee's job description, personnel policies and procedures, and employee rights and responsibilities.

a. The district department shall have written policies and procedures which ensure that the district complies with the Iowa division of labor services' "Right to Know" rules, 875—Chapter 140.

b. The district department shall enter and maintain information required by the department of corrections statewide database application called the Iowa corrections offender network (ICON). That information will include all details necessary for the department of corrections to generate accurate and timely periodic statistical reports of district department, pretrial release, presentence investigations, field services workloads, residential facility occupancy, and specially funded treatment/monitoring programs. The district department shall devise and implement local policies and procedures to provide adequate training and support of data entry personnel and other end users, regularly audit data entry accuracy and timeliness and correct inaccurate or incomplete information discovered during that auditing process.

40.5(4) Written procedures shall exist concerning the security, maintenance, accessibility and destruction of case records.

40.5(5) The director shall ensure that there are written procedures governing the handling and dissemination of client file information, including access by the client, and the confidentiality of client records which comply with applicable state and federal laws.

40.5(6) The director shall maintain current documentation of inspection reports for all buildings under the director's purview which shall include when applicable, fire, building and health reports.

40.5(7) All reports required by the department of corrections shall be prepared and submitted on time in accordance with Iowa Code section 905.7.

40.5(8) The district department shall establish fiscal procedures in accordance with guidelines established by the department of corrections to ensure that funds generated from programs financed with state moneys or moneys collected by the use of state allocations be identified and expended to offset program costs as described and approved in the state purchase of service contract. All funds received by the district department and their source shall be reported to the department of corrections. All fund balances for the current fiscal year shall be reported by the district departments to the department of corrections quarterly on specific due dates. Funds so generated shall be expended during the fiscal year in which they are collected. However, such funds not expended during the fiscal year will be utilized by the judicial district department of correctional services to reduce budget requests for the subsequent fiscal year. All funds shall be applied as budgeted or be utilized as discretionary program funds with the approval of the department of corrections before applying other funds to an expenditure.

40.5(9) The district director shall administer the community-based corrections personnel classification system established by the district departments and the department of corrections and shall adhere to all salary ranges, policies, and procedures established for the purpose of implementing and maintaining the community-based corrections personnel classification manual.

The district director shall administer the collective bargaining contract and adhere to all policies and procedures established by the department of corrections and department of administrative services for contract administration.

Employee positions utilized by the district department shall be approved by the district board and the department of corrections through the purchase of service agreement. Any changes in the number and classification of positions authorized in the purchase of service agreement shall be approved by the district board and the department of corrections.

40.5(10) The district director shall administer preemployment testing to determine the suitability of applicants for corrections positions in district departments of correctional services in compliance with the Code of Iowa. Applicants, pursuant to the Code of Iowa, must satisfactorily complete mental fitness testing as approved by the department of corrections prior to hire. In addition, a background investigation and criminal records check will be completed on all hires.

[ARC 3929C, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]

201—40.6 Infectious disease standard. Rescinded. IAB 3/20/91.

These rules are intended to implement Iowa Code chapters 905 and 907 and sections 908.11 and 910.5.

[Filed emergency 9/9/83—published 9/28/83, effective 10/1/83]

[Filed 11/18/83, Notice 9/28/83—published 12/7/83, effective 1/11/84]

[Filed 2/24/84, Notice 1/4/84—published 3/14/84, effective 7/1/84]

[Filed 5/4/84, Notice 2/15/84—published 5/23/84, effective 6/27/84]

[Filed 4/4/85, Notice 10/24/84—published 4/25/85, effective 5/29/85]

[Filed emergency after Notice 6/26/86, Notice 4/23/86—published 7/16/86, effective 6/26/86]

[Filed 12/21/87, Notice 7/1/87—published 1/13/88, effective 2/17/88]¹

[Filed 10/14/88, Notice 6/15/88—published 11/2/88, effective 12/7/88]

[Filed 3/31/89, Notice 12/28/88—published 4/19/89, effective 5/24/89]

[Filed emergency 2/20/91—published 3/20/91, effective 2/20/91]²

[Filed 3/26/93, Notice 11/11/92—published 4/14/93, effective 5/20/93]

[Filed 1/31/94, Notice 11/10/93—published 2/16/94, effective 3/23/94]

[Filed 12/14/04, Notice 10/13/04—published 1/5/05, effective 2/9/05]

[Filed ARC 3929C (Notice ARC 3806C, IAB 5/23/18), IAB 8/1/18, effective 9/5/18]³
[Filed ARC 5247C (Notice ARC 5145C, IAB 8/26/20), IAB 11/4/20, effective 12/9/20]

- ¹ Effective date of subrule 40.4(11) delayed 70 days by the Administrative Rules Review Committee at their February 11, 1988, meeting.
- ² Subrules 40.4(11) and 40.4(12) published as Notice of Intended Action, IAB 10/17/90.
- ³ September 5, 2018, effective date of ARC 3929C [amendments to chs 1, 5, 10, 11, 20, 38, 40, 41, 42, 43, 44, 45, 47, 50, 51] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 14, 2018.