

## **Public Notice**

The Board of Corrections will review the following Administrative Regulation AR-011 News Media Interviews and Correspondence..

Copies of the proposed regulation are available for public inspection at the Arkansas Department of Correction, 6814 Princeton Pike Road, Pine Bluff, AR 71602. The proposed Administrative Regulation AR-11 News Media Interviews and Correspondence, is also available for review online through the Secretary of State's website: [sos.arkansas.gov](http://sos.arkansas.gov).

Written comments regarding the Administrative Regulation should be postmarked by December 15, 2017. Comment may be mailed to Arkansas Department of Correction, Attention: Agency Policy Coordinator, P.O. Box 8707, Pine Bluff, AR 71611-8707.

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**Mark Martin**

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Department of Correction

Department Public Information Office

Contact Takelia McDaniel E-mail Takelia.McDaniel@Arkansas.gov Phone 870-267-6345

Statutory Authority for Promulgating Rules 12-27-113

Rule Title: AR011 News Media Interviews and Correspondence

Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Legal Notice Published .....

Final Date for Public Comment .....

Reviewed by Legislative Council .....

Adopted by State Agency .....

Date

12/13/17

1/12/2017

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Takelia McDaniel  
Contact Person

Takelia.McDaniel@arkansas.gov  
E-mail Address

12/11/17  
Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

T. McDaniel

Signature

870-267-6345

Phone Number

Takelia.McDaniel@arkansas.gov

E-mail Address

Agency Policy Coordinator

Title

12/11/2017

Date

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT/AGENCY Arkansas Department of Correction  
DIVISION Public Information Officer  
DIVISION DIRECTOR Solomon Graves  
CONTACT PERSON Takelia McDaniel  
ADDRESS PO Box 8707 Pine Bluff 71611  
PHONE NO. 870-267-6345 FAX NO. 870-267-6373 E-MAIL Takelia.mcdaniel@arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Solomon Graves  
PRESENTER E-MAIL Solomon.graves@arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.  
B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.  
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.  
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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1. What is the short title of this rule? AR-011 News Media Interviews and Correspondence

2. What is the subject of the proposed rule? To provide the general public and representatives of the news media with access, and information, to the maximum extent possible compatible with the orderly administration of the Arkansas Department of Correction and its facilities.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒  
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒  
If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule  
expire?

N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐

No **X**

5. Is this a new rule? Yes ☐ No **X**

If yes, please provide a brief summary explaining the regulation. \_\_\_\_\_

Does this repeal an existing rule? Yes ☐ No **X**

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. \_\_\_\_\_

Is this an amendment to an existing rule?

Yes **X**

No ☐

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A 12-27-105

7. What is the purpose of this proposed rule? Why is it necessary? **To provide representatives of the news media with access, and information, to the maximum extent possible compatible with the orderly administration of the Arkansas Department of Correction and its facilities.**

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). sos.arkansas.gov

9. Will a public hearing be held on this proposed rule? Yes ☐ No **X**  
If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

December 15, 2017

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

Pending Legislative Review and final approval by Board of Correction

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See Attachment

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). N/A

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. Unknown

### FINANCIAL IMPACT STATEMENT

#### PLEASE ANSWER ALL QUESTIONS COMPLETELY

**DEPARTMENT** Arkansas Department of Correction  
**DIVISION** Public Information Office  
**PERSON COMPLETING THIS STATEMENT** Takelia McDaniel  
**TELEPHONE** 870-267-6345 **FAX** 870-267-6373 **EMAIL:** Takelia.Mcdaniel@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** AR-011 News Media Interviews and Correspondence

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No **X**
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes **X** No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes **X** No ☐

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;  
N/A

(b) The reason for adoption of the more costly rule;  
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation? N/A

#### Current Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_

#### Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_

Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_

(b) What is the additional cost of the state rule? N/A

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected. N/A

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected. N/A

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:


- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

### **Attachment #1: AR-11 Summary**

This request is being presented to amend Administrative Regulation (AR) 011 News Media Interviews and Correspondence for the following reasons: to add a section entitled "Definition" to clarify the term news media and to establish protocol regulating the approval of admission of news media representatives to ADC Units/Facilities. This amendment also adds protocol that must be followed for emergency notification to the public and news media and to allow the development and implementation of programs designed to keep news media and the general public well-informed of the Agency's special events and incidents.



 <p style="text-align: center;"><b>ADMINISTRATIVE REGULATIONS</b></p> <p style="text-align: center;"><b>STATE OF ARKANSAS</b></p> <p style="text-align: center;"><b>BOARD OF CORRECTIONS</b></p>	<b>Section Number:</b>	<b>Page Number:</b>
	<b>011</b>	<b>1 of 2</b>
	<b>Board Approval Date:</b>	
	<b>11/29/79</b>	
	<b>Supersedes:</b>	<b>Dated:</b>
	<b>AR 011</b>	<b>11/29/79</b>
	<b>Reference:</b>	<b>Effective Date:</b>
	<b>N/A</b>	<b>2/1/80</b>
<b>SUBJECT: News Media, Interviews and Correspondence</b>		

### **I. POLICY OF DEPARTMENT:**

To provide representatives of the news media with access, and information, to the maximum extent possible compatible with their orderly administration of Arkansas Department of Correction facilities and programs.

### **II. DEFINITION**

News Media - Properly credentialed representatives of news organizations; whose primary purpose is not for commercial production or entertainment. This may include representatives of: general circulation newspapers, periodical magazines of national circulation sold through newsstands and/or subscriptions to the general public, online outlets, local/national/international news services; and radio/television stations/networks holding a Federal Communication Commission license.

### **III. EXPLANATION:**

- A. After making prior arrangements with the ~~Warden or Legislative and Community Relations Office~~ Department's Public Information Officer and being approved by the Director, news media representatives should be admitted to correctional institutions and facilities during administrative business hours. Access may be permitted during at times other than regular business hours at the discretion of the Warden, appropriate Deputy/Assistant Director or the Director.
- B. Interviews with correctional officials in general should be granted to enable the Department to provide the public, via the news media, with a better appreciation and understanding of the needs and problems of the agency and of incarcerated men and women. Interviews should also be granted so that Department staff can discuss the community's role in the ~~reintegration~~ re-entry process.
- C. With respect to requests for interviews with inmates, it will be necessary for the ~~reporter~~ representative of the news organization to first contact the ~~unit~~ inmate to obtain the inmate's permission to be interviewed. The inmate ~~may wish to consult with his/her attorney of record before agreeing to be~~ interviewed and/or photographed. Before being interviewed or photographed, the inmate must sign an Inmate Consent Form

and same ~~which~~ should be witnessed by a \_\_\_\_\_ Department staff member.

- D. Prior to granting approval for ~~such~~ interviews with inmates, the Warden ~~Director and Public Information Officer~~ will have to take into \_\_\_\_\_ consideration the effect such an interview may have on the inmate, and his/her \_\_\_\_\_  
\_\_\_\_\_ personal mental attitude, the effect it may have on other inmates and institutional operations, ~~the effect it may have on any victims,~~ and the effect of \_\_\_\_\_  
\_\_\_\_\_ such an interview with respect to any pending review of clemency applications or litigation involving the inmate.
- E. All interviews must be approved by the Director and interviews may be approved with or without cameras; at the Director's discretion.
- ~~EF.~~ Inmates shall be allowed to send correspondence to and receive correspondence from news media representatives with no greater limitation or restriction imposed by \_\_\_\_\_  
\_\_\_\_\_ the institution than upon any other general correspondence sent out and received by the inmate.
- ~~FG.~~ The news media representative shall be escorted by the warden or his/her designee while at \_\_\_\_\_  
\_\_\_\_\_ the institution.
- H. With the approval of the Director, the Public Information Officer may develop and implement programs, policies and procedures that advance the news media's and public's knowledge of the Department or that highlight a special event. [SG1]

#### IV. Notification of Emergencies and Other Critical Incidents:

Emergencies and other critical incidents shall be reported to the local news media by the Public Information Officer only after contact has been made with the Director, Board of Corrections, the Governor's Office and other officials as determined by the Director. Emergencies and other critical incidents generally include: escapes, riots, altercations where outside medical treatment or hospitalization is required for offenders or employees, suicides, lockups, escape attempts, fires, and major damage to state property. [SG2]

AR011

### Arkansas Department of Correction

#### INMATE CONSENT FORM

The undersigned does hereby consent to be photographed and/or interviewed by

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Said photographs may include filming of any kind, and said interview may include a recording thereof. The undersigned consents and authorizes that any such photographs or interview material may be utilized by

FOR THE AFOREMENTIONED PURPOSE.

Furthermore, the undersigned does hereby release and does save harmless the Department of Correction, its agents and servants, from any and all claims for damage for libel, slander, invasion of the right of privacy, or any other claim based on the use of said material.


The above consent is given by me freely and voluntarily without any promises, threats or duress.

Dated \_\_\_\_\_ Signed: \_\_\_\_\_

\_\_\_\_\_  
Address: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

Address: \_\_\_\_\_

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- D. Prior to granting approval for interviews with inmates, the Director and Public Information Officer will have to take into consideration the effect such an interview may have on the inmate, and his/her personal mental attitude, the effect it may have on other inmates and institutional operations, the effect it may have on any victims, and the effect of an interview with respect to any pending review of clemency applications or litigation involving the inmate.

- E. All interviews must be approved by the Director and interviews may be approved with or without cameras; at the Director's discretion.
- F. Inmates shall be allowed to send correspondence to and receive correspondence from news media representatives with no greater limitation or restriction imposed by the institution than upon any other general correspondence sent out and received by the inmate.
- G. The news media representative shall be escorted by the warden or his/her designee while at the institution.
- H. With the approval of the Director, the Public Information Officer may develop and implement programs, policies and procedures that advance the news media's, and public's knowledge of the Department or that highlight a special event.

#### **IV. NOTIFICATION OF EMERGENCIES AND OTHER CRITICAL INCIDENTS:**

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