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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

September 29, 2021

Mr. Lance Neff, General Counsel
Mr. Philip A. Fowler, Attorney Supervisor
Department of Corrections
501 South Calhoun Street
Tallahassee, Florida 32399-2500

**RE: Department of Corrections
Proposed Rule Number 33-210.101**

Dear Messrs. Neff and Fowler:

Thank you for your response to the Committee's letters of September 10 and 13, 2021.


In response to the comments set forth in your letter, I can assure you that the Committee is well aware of the Department of Correction's rulemaking authority under section 944.09, Florida Statutes. However, this authority is not absolute and is tempered by the provisions of chapter 120, Florida Statutes, the laws implemented by the rule, and applicable case law. The questions raised in any review by the Committee are intended to ensure that the proposed rules are consistent with all of these interfacing requirements and the provisions of sections 120.52(8) and 120.545(1), Florida Statutes. The Committee's comments are not intended to suggest any wrongdoing or failure on the part of the Department, but to seek clarification for a better understanding of the proposed rule.

Your letter notes that some of the Committee's comments were directed at existing language that was previously in place as part of prior amendments, "with JAPC having many opportunities to raise concerns without having done so." When reviewing a proposed rule, the Committee reviews the rule as a whole, as published in the Florida Administrative Register, and does not parse out new language from existing language for review. The review is made within the framework of the proposed amendments and the stated purpose and effect of the rule. The Committee also reviews proposed rules for internal consistency as well as possible conflicts with the provisions of other agency rules. I would also point out that section 120.545(1), Florida Statutes, provides that, "As a legislative check on legislatively created authority, the committee . . . may examine any existing rule. . . ." There is no timeframe limiting the Committee's review.

Mr. Lance Neff
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The Committee looks forward to reviewing the Department's changes.

Sincerely,

A handwritten signature in black ink that reads "Kenneth J. Plante". The signature is written in a cursive style with a large, stylized initial 'K'.

Kenneth J. Plante
Coordinator

KJP:tf #184251