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**COMMENTS ON PROPOSED DEPARTMENT OF CORRECTIONS’
RULES AND REGULATIONS RELATING TO
“PETITION FOR PROMULGATION OF RULES” [240-RICR-00-001];
“DECLARATORY ORDER PETITIONS” [240-RICR-00-00-2]; AND
“CONDUCT OF PUBLIC HEARINGS” [240-RICR-00-00-3]**

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The ACLU of Rhode Island appreciates the opportunity to offer comments on these three proposed rules addressing the Department’s responsibilities and procedures in implementation of the Administrative Procedures Act. Our few comments about them appear below.

A. PETITION FOR PROMULGATION OF RULES

This proposal addresses the public’s ability to request the adoption, amendment or repeal of DOC regulations. The cost-benefit analysis states that: “Multiple submission methods—including mail, hand delivery, and email—were included to ensure receipt of requests and to accommodate diverse petitioners, ranging from members of the public to professional organizations.”

However, the regulation is not as diverse as the analysis suggests. Rather, Section 1.4(B) requires that a copy of any mailed submission must *also be sent via email* in order to be considered. In other words, mail delivery is not a stand-alone option, thus undermining the goal of truly providing a range of options to accommodate members of the public. We believe that a person submitting a rule-making petition should be able to do so via regular mail *or* email, but they should not be *required* to submit it electronically if they choose to submit it by mail.

B. DECLARATORY ORDER PETITIONS

A similar concern animates our comments on this proposed regulation, which addresses the filing of declaratory order petitions. Again, while, according to the cost-benefit analysis, the regulation purports to “accommodate both traditional and electronic communication preferences,” a traditional mail submission is acceptable only if a copy of the petition is also emailed. *See* Section 1.4(B). While we appreciate the DOC’s interest in ensuring “verifiable channels for submission,” an electronic submission, like a mailed letter, can just as easily be lost or never received. We request that submissions be allowed via snail mail without a corresponding email requirement.

C. CONDUCT OF PUBLIC HEARINGS

1. As with the other two proposed regulations, this one requires members of the public submitting testimony via snail mail to also submit a copy via email in order to be considered. *See* Section 1.4.3(B). That requirement is particularly problematic in this context, as many of the people affected by Departmental regulations and who may wish to offer testimony (but are unlikely to ever be filing declaratory order petitions, for example) may not have easy access to the internet. It could serve as a real barrier to public input. We therefore urge that this be amended in the same manner as we have suggested above for the other rules.

2. We encourage an amendment to Section 1.4.4(A), which bars members of the public attending a public hearing from engaging in “disorderly gesticulations.” While we fully recognize the Department’s need to ensure that public hearings are orderly and that disruptions are not allowed, the vagueness of this term is of concern. Because it is gratuitous and confusing, we urge that it be stricken.

We appreciate your attention to our views, and trust that you will give them your careful consideration. If the suggestions we have made are not adopted, we request, pursuant to R.I.G.L. §42-35-2.6(1), a statement of the reasons for not accepting them.

Submitted by:

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