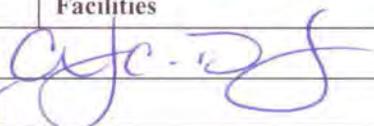


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| <p style="text-align: center;">POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION</p> | <p style="text-align: center;">POLICY NUMBER 4.5</p> | <p style="text-align: center;">PAGE NUMBER 1 of 5</p> |
| | <p>RELATED ACA STANDARDS:</p> | |
| <p>CHAPTER: 4 Decision-Making to Offenders</p> | <p>SUBJECT: Incoming Publications for Level V and IV Facilities</p> | |
| <p>APPROVED BY THE COMMISSIONER: </p> | | |
| <p>EFFECTIVE DATE: <i>Nov 3, 2008</i></p> | | |
| <p>APPROVED FOR PUBLIC RELEASE</p> | | |

I. AUTHORITY: 11 Del. C. 6517, 29 Del. C. 8903

II. PURPOSE: It is the Department of Correction's policy to promote education and literacy amongst the inmate population. Traditionally, the overall education level possessed by the inmate population has lagged far behind the non-incarcerated public. There have been many studies which link recidivism to a lack of proper education. Accordingly, it is essential to provide inmates a wide range of choice and variety of reading materials to foster interest in reading, education, and personal betterment. It is the Department of Correction's hope that access to reading materials may foster the inmate's desire to learn.

The Department of Correction, however, must provide safe and secure correctional facilities within the State of Delaware. Certain incoming publications are detrimental to the security, good order, or discipline required within the correctional setting. This policy addresses the method for decision-making related to the topic of incoming inmate publications.

Except when precluded by statute or court order, the Department of Correction (DOC) permits an inmate to subscribe to or to receive publications without prior approval and has established procedures to determine if an incoming publication is detrimental to the security, discipline, or good order of the institution or if it might facilitate criminal activity.

The term publication, as used in this policy, means a book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, plus such other materials addressed to a specific inmate such as advertising brochures, flyers, and catalogs.

Publications determined detrimental to the security, good order, or discipline of the institution or that may facilitate criminal activity, or are otherwise prohibited by law, will be excluded from DOC facilities.

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A safer environment for staff and inmates will be provided by strengthening procedures designed to prevent the introduction of contraband.

III. APPLICABILITY: All Department employees, volunteers, persons or organizations conducting business with the Department; all offenders under the supervision of the Department.

IV: POLICY: DOC institutions, an inmate may receive publications and newspapers only from the publisher, from a book club, or from bookstore.

The sender's address shall be clearly identified on the outside of the package.

The Warden may permit an inmate to obtain a publication from another source if the publication is no longer available from the publisher, book club, or bookstore. The Warden shall require that the inmate provide written documentation that the publication is no longer available from these sources. The approval of any request for an exception is to be documented in writing.

The Warden may reject a publication only if it is determined detrimental to the security, good order, or discipline of the institution or if it might facilitate criminal activity. The Warden may not reject a publication solely because its content is religious, philosophical, political, and social or because its content is unpopular or repugnant. Publications, which may be rejected by a Warden, include, but are not limited to, publications, which meet one of the following criteria:

- a. It depicts or describes procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;
- b. It depicts, encourages, or describes methods of escape from correctional facilities, or contains blueprints, drawings or similar descriptions of DOC institutions;
- c. It depicts or describes procedures for the brewing of alcoholic beverages, or the manufacture of drugs;
- d. It is written in code;

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- e. It depicts, describes or encourages activities which may lead to the use of physical violence or group disruption;
- f. It encourages or instructs in the commission of criminal activity; and
- g. It is sexually explicit material, which by its nature or content poses a threat to the security, good order, or discipline of the institution, or facilitates criminal activity.

Only the Warden/ Warden's designee may reject an incoming publication. In the Warden's absence, only the Warden's designee may perform this function.

To assist staff in determining which materials may pose the type of threat, which warrants exclusion, the following guidelines are given.

1. A Warden may determine that sexually explicit material of the following types is to be excluded, as potentially detrimental to the security and good order, or discipline of the institution, or as facilitating criminal activity:
 - Sado-masochistic
 - Bestiality
 - Involving children
2. Additionally:
 - The Warden must prohibit a sexually explicit publication if it is determined to pose a threat to the institution or is contrary to law. Child pornography materials, which are prohibited by law, are examples.

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- Sexually explicit material does not include material of a news or information type. Publications concerning research or opinions on sexual, health, or reproductive issues, or covering the activities of gay rights organizations or gay religious groups, for example, should be admitted unless otherwise a threat to legitimate institution interests.
- Literary publications should not be excluded, solely because of homosexual themes or references, if they are not sexually explicit in a manner, which threatens legitimate institution interests.
- Sexually explicit material may nonetheless be admitted if it has scholarly value, or general social or literary value.
- The Warden may not establish an excluded list of publications. This means the Warden shall review the individual publication prior to the rejection of that publication. Rejection of several issues of a subscription publication is not sufficient reason to reject the subscription publication in its entirety.

Where a publication is found unacceptable, the Warden shall promptly advise the inmate in writing of the decision and the reasons for it. The notice must contain reference to the specific article(s) or material(s) considered objectionable. Inmates/Offenders may appeal any denial of publications. In questionable cases, institution staff should consult with legal staff prior to and denial.

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The Warden shall provide the publisher or sender of an unacceptable publication a copy of the rejection letter. The Warden shall advise the publisher or sender that he may obtain an independent review of the rejection by writing to the (Bureau Chief of Prisons or Bureau Chief of Community Correction) within 20 days of receipt of the rejection letter. The Warden shall return the rejected publication to the publisher or sender of the material unless the inmate indicates intent to file a grievance, in which case the Warden shall retain the rejected material at the institution for review. If the rejection is sustained upon review, the rejected publication shall be returned to the publisher when any appeal or other legal use is completed.

See notification to Inmate and Publisher/Sender of Rejected Publication (Attachment A) for a sample notification to inmate and publisher/sender.

- The Warden must retain the rejected publication for 20 days from the date that the inmate is sent written notification of the rejection.
- This 20-day period is to allow the inmate the opportunity to file a grievance. If the inmate does not file a grievance within 20-days, the rejected publication shall be returned to the publisher.
- If the inmate does file a grievance, the Warden must retain the rejected publication at the institution.

The Warden may set limits locally (for fire, sanitation, housekeeping reasons or classification-based reasons on the number or volume of publications an inmate may receive or retain in his quarters.

NOTIFICATION TO INMATE AND PUBLISHER/SENDER OF **REJECTED**
PUBLICATION (TO BE USED WHEN REJECTING A PUBLICATION UNDER THIS
POLICY)

Inmate: _____

S.B.I. # Number: _____

Institution: _____

RE: _____ Issue: _____

The above named publication/material from [publisher/sender name_] has been rejected in accordance with the Department of Correction Policy on incoming publications, which provides in part:

A publication may be rejected only if it is determined detrimental to the security, good order, or discipline of the institution or if it might facilitate criminal activity.

The above named publication has been rejected because [provide reference to the specific article(s) or material (s) considered objectionable and the reason (s) for the decision to reject].

A copy of this notification has been sent to the publisher/sender who may obtain an independent review of this rejection by writing to Bureau Chief [name, address] within twenty (20) days of receipt of that copy.

Warden

Date

cc: [publisher/sender name and address]