

CHAPTER 33-210
FIELD SUPPORT SERVICES

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33-210.101 Routine Mail.

(1) The provisions of this section shall apply to routine mail. Routine mail is all inmate mail, except legal mail (see Rule 33-210.102, F.A.C.), privileged mail (see Rule 33-210.103, F.A.C.), and publications (see Rule 33-501.401, F.A.C.).

(2) Inmates will be permitted to receive only the following types of materials through routine mail:

(a) Written correspondence (no limit as to number of pages). Correspondence shall be written in either English or Spanish. Inmates who cannot read and write in English or Spanish shall request approval from the warden to correspond and receive correspondence in the language which the inmate can read and write using Form DC6-236, Inmate Request. The warden shall approve such requests when there are department staff who can translate the correspondence or when it is otherwise possible to obtain translation services at de minimus cost to the Department. Correspondence may be written on greeting cards, but cards containing electronic or other non-paper parts, cards that are constructed in such a way as to permit concealment of contraband, or cards that are larger than 8"x10" will not be permitted. Form DC6-236 is incorporated by reference in Rule 33-103.005, F.A.C.

(b) Up to 15 pages of additional written materials, unless the additional written materials pertain to an inmate's legal case, health, or other significant issues and prior approval is obtained from the warden to send in an enclosure of greater than 15 pages. Each page can be no larger than 8 1/2" x 14" in size; material can be on both sides of a page. This does not include publications, which shall be handled pursuant to Rule 33-501.401, F.A.C. Individual articles or clippings from publications the content of which is otherwise admissible are permissible, up to the 15 page limit. No item can be glued, taped, stapled or otherwise affixed to a page. Requests to send enclosures of greater than 15 pages shall be made to the warden or designee prior to sending the material. Exceptions to the 15 page limitation are intended for enclosures concerning legal, medical, or other significant issues, and not for material for general reading or entertainment purposes. The warden shall advise the sender and the mail room of his approval or disapproval of the request.

(c) Photographs. Photographs will be counted toward the 15 page additional materials limitation. Nude photographs or photographs that reveal genitalia, buttocks, or the female breast will not be permitted. Polaroid photographs will not be permitted. Photographs will not exceed 8" x 10".

(d) Up to ten unused greeting cards (no larger than 8" x 10") with matching envelopes or up to ten sheets of stationery or other blank writing paper (lined or unlined) with envelopes (stamped or unstamped). These items do not count toward the 15 page limitation for additional materials, but cannot exceed 10 greeting cards, sheets of stationery or sheets of blank writing paper and 10 envelopes. Card stock, sketch paper, and other types of craft paper may not be included.

(e) U.S. postage stamps. The value of the stamps cannot exceed the equivalent of 20 (1 oz.) first class stamps. These items do not count toward the 15 page limitation for additional materials. Inmates shall not possess more than the maximum number of stamps permitted by Rule 33-602.201, F.A.C. Due care shall be exercised in processing mail; however, the department shall not be responsible for any postage stamps sent through the mail.

(3) No other items may be received through incoming routine mail. If an impermissible item is found (other than items of an illegal nature) the entire correspondence will be returned to the sender pursuant to subsection (14) of this rule. For example, the following items are not permissible for inclusion in or attachment to routine mail:

- (a) Non-paper items;
- (b) Items of a non-communicative nature such as lottery tickets or matchbooks;
- (c) Stickers or stamps (other than postage stamps, postal service attachments, and address labels affixed to the outside of the mailing envelope);
- (d) Address labels (other than those affixed to the outside of the mailing envelope); or
- (e) Laminated cards or other laminated materials.

(4) Inmates shall be responsible for informing correspondents of the regulations concerning incoming routine mail.

(5) Any routine mail sent or received shall be opened, examined, and is subject to being read by a designated employee. If the warden has approved an inmate to receive correspondence written in a language other than English or Spanish the correspondence may be translated to confirm that it complies with the applicable rules. If the language cannot be translated by an employee at the facility the correspondence may be photocopied and sent to another institution or the central office for translation. Outgoing mail shall not be sealed by the inmate sender. Incoming and outgoing mail that is properly addressed and otherwise in compliance with applicable rules shall not be held for processing for more than 48 hours of receipt by the mail room, excluding weekends and holidays.

(6) Except as provided in this rule, inmates may send mail to and receive mail from any person or group they wish.

(7) Correspondence with inmates of other penal institutions shall be subject to the prior approval of the warden of each institution. Either warden shall withhold approval if he finds that the intended correspondence would present a substantial threat of interference with the security, order or rehabilitative objectives of his institution.

(8) Correspondence with individuals under civil commitment as sexually violent predators shall be subject to the prior approval of the warden. The warden shall withhold approval if he finds that the intended correspondence would present a substantial threat of interference with the security, order, or rehabilitative objectives of his institution.

(9) Inmates shall not use correspondence privileges to solicit or otherwise commercially advertise for money, goods, or services. For the purposes of this rule this includes advertising for pen-pals; inmates are not prohibited from corresponding with pen-pals, but shall not place ads soliciting pen-pals. Inmates who post ads or have ads posted with the assistance of another person shall be subject to disciplinary action. If an inmate alleges that an ad was posted without his assistance or permission or that the ad was placed before the restriction on soliciting pen-pals became effective, it is the responsibility of the inmate to request that the ad be removed by submitting a written request to the owner, operator, or administrator of the forum in which the ad is located if it is reasonably possible for the Department to identify the physical address of such entity. No inmate shall be subject to discipline if the ad is not removed subsequent to submission of the written request. If it is not reasonably possible for the Department to identify the physical address of the owner, operator, or administrator of the forum in which the ad is located, the inmate must submit Form DC6-236, Inmate Request, to the warden indicating that the ad was placed without the inmate's knowledge or consent or that it was placed prior to the restriction on solicitation of pen-pals. The inmate shall be subject to disciplinary action only if it is discovered that the inmate solicited the ad and that it was placed subsequent to the restriction on solicitation of pen-pals.

(10) Inmates may not send mail to any person who has advised the warden that he does not wish to receive mail from the inmate. The parents or legal guardians of a person under the age of 18 may advise that mail is not to be sent to such person. Upon receipt of such advisement, the warden will cause to be prepared an acknowledgment specifying that the inmate will not be permitted to send mail to the person requesting the correspondence restriction and that such person should return any further mail received from the inmate and notify the warden of the attempt to correspond. After the inmate is notified of the correspondence restriction, any further attempt to correspond will be considered a violation of this rule and of section 9-14 of the Rules of Prohibited Conduct (Rule 33-601.314, F.A.C.), and will subject the inmate to disciplinary action. This restriction does not apply to civil pleadings or other legal documents pertaining to a civil case in which both the inmate and the receiver are parties, and no inmate shall be subject to discipline for mailing such items.

(11) Outgoing or incoming mail shall be disapproved for mailing or delivery to the inmate if any part of it:

(a) Depicts or describes procedures for the construction of or use of weapons, ammunitions, bombs, chemical agents, or incendiary devices;

(b) Depicts, encourages, or describes methods of escape from correctional facilities or contains blueprints, drawings, or similar descriptions of Department of Corrections facilities or institutions, or includes road maps that can facilitate escape from correctional facilities;

(c) Depicts or describes procedures for the brewing of alcoholic beverages or the manufacture of drugs or other intoxicants;

(d) Is written in code or is otherwise written in a manner that is not reasonably subject to interpretation by staff as to meaning or intent;

(e) Depicts, describes, or encourages activities that may lead to the use of physical violence or group disruption;

(f) Encourages or instructs in the commission of criminal activity;

(g) Is dangerously inflammatory in that it advocates or encourages riot, insurrection, disruption of the institution, or violation of department or institution rules;

(h) Threatens physical harm, blackmail, or extortion;

(i) Pictorially depicts sexual conduct as defined by Section 847.001, F.S., as follows:

1. Actual or simulated sexual intercourse;

2. Sexual bestiality;

3. Masturbation;

4. Sadomasochistic abuse;

5. Actual contact with a person's unclothed genitals, pubic area, buttocks, or, if such person is a female, breast;

6. Any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.

(j) Presents nudity in such a way as to create the appearance that sexual conduct is imminent, i.e., display of contact or intended contact with genitals, pubic area, buttocks or female breasts orally, digitally or by foreign object, or display of sexual organs in an aroused state.

(k) Contains criminal history, offender registration, or other personal information about another inmate or offender which, in the hands of an inmate, presents a threat to the security, order, or rehabilitative objectives of the correctional system or to the safety of any person;

(l) Contains an advertisement promoting any of the following where the advertisement is the focus of, rather than incidental to, the publication, or the advertising is prominent or prevalent throughout the publication.

1. Three-way calling services;

2. Pen-pal services;

3. The purchase of products or services with postage stamps; or

4. Conducting a business or profession while incarcerated.

(m) Is not in compliance with incoming mail regulations set forth in subsections (2) and (3) of this rule (incoming mail only);

(n) Contains or appears to contain unknown or unidentifiable substances; or

(o) Otherwise presents a threat to the security, order, or rehabilitative objectives of the Correctional System, or to the safety of any person.

(12) No inmate may establish or conduct a business through the mail during his period of incarceration.

(13) Inmates shall be prohibited from entering contests or sweepstakes through the mail while incarcerated.

(14)(a) When an inmate is prohibited from sending a letter, the letter and a written and signed notice stating one of the authorized reasons for disapproval and indicating the portion or portions of the letter causing disapproval will be given to the inmate. When an inmate is prohibited from receiving an item of mail, the inmate and the sender will be given notice in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. Form DC2-521, Unauthorized Mail Return Receipt, will be placed in the original envelope with the correspondence and returned to the sender. However, if an incoming mailing is rejected because it does not comply with the requirements of paragraph (15)(a) or subsection (20) of this rule, Form DC2-521 shall not be prepared. Instead, staff shall write or stamp the reason for rejection on the mailing and it shall be returned to the sender unopened.

(b) If the incoming mail is disapproved for one of the reasons listed in subsection (7), (8), or (9), paragraph (11)(a) through (l) or (o), subsection (12) or (13) of this rule, the institution shall make a copy of the correspondence before returning it to the sender with Form DC2-521, Unauthorized Mail Return Receipt, included. If an institution receives identical correspondence from the same individual or entity that is addressed to more than 10 inmates, and the correspondence is disapproved for one of these reasons, the institution shall make only one copy of the correspondence and shall mail the sender only one Form DC2-521. The mailings shall be returned to the sender and may be returned together in a single package. The institution is not required to copy incoming correspondence disapproved pursuant to subsection (7) if the return address on the envelope was the reason for determining that the mail was sent from an inmate at another penal institution.

(c) The copies shall be retained by the institution for 30 days, not including any time that a grievance appeal is pending, provided the inmate has initiated the process by filing a formal grievance within 15 days of notice of the mail rejection. The inmate is not required to file an informal grievance of the mail rejection.

(d) If unauthorized items are discovered in the mail (other than items of an illegal nature), the unauthorized item and the correspondence will be returned to the sender with Form DC2-521, Unauthorized Mail Return Receipt, included. Form DC2-521 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is 5-9-10.

(15) Incoming and outgoing routine mail shall be delivered to and picked up from the institution or facility by the U.S. Postal Service only.

(a) Addresses of incoming mail: The address of all incoming mail must contain the inmate's committed name, identification number and institutional address. The inmate's dorm and bunk locations are not required. All incoming mail shall contain the return address of the sender. The return address of incoming mail is subject to verification, and incoming mail shall be rejected if the sender or recipient cannot be verified.

(b) Addresses of outgoing mail: The return address of all outgoing mail shall contain the inmate's committed name, identification number, and institutional name and institutional address. The inmate's dorm and bunk locations are not required. No prefix other than inmate, Mr., Ms., Miss, or Mrs. nor any suffix other than Jr., Sr. or Roman numeral such as II or III may be included as part of the committed name in the return address. The institutional name in the return address must be spelled out completely with no abbreviations. All outgoing routine mail will be stamped "mailed from a state correctional institution" by mail room staff.

(c) Third party mailing services.

1. Inmates shall not utilize any third party mailing services or engage in any activities that would enable them to engage in correspondence without revealing their status as inmates. Examples of prohibited activities include the following:

- a. Placement of ads in magazines, newspapers, or other publications;
- b. Posting of ads or other information on Internet sites;
- c. Use of any mailing service that allows the inmate to utilize a non-institutional address and engage in correspondence without revealing his status as an inmate;
- d. Any activity or service that does not reveal to potential correspondents the inmate's status as an inmate.

2. Senders shall not utilize any third party mailing services or engage in any activities that would enable them to engage in correspondence without revealing their identity or return address.

3. Any inmate who is discovered to be participating in any of the above-prohibited activities shall be subject to disciplinary action in accordance with Rules 33-601.301-.314, F.A.C.

(16) When an inmate is transferred or released, routine mail addressed to the inmate at his old institution shall be treated as follows:

(a) For 1 month after the transfer or release, all first-class and second-class mail will be returned to the post office within 10 working days of receipt with a forwarding address, if available, and a request will be made to postal authorities to forward. All postage due is the responsibility of the inmate and must be paid in accordance with postage regulations. At the end of the 1-month period, all first-class and second-class routine mail will be returned to the U.S. Postal Service with no attempt to have mail forwarded.

(b) From the date of transfer or release, all routine mail other than first-class and second-class will be returned to the U.S. Postal Department for its disposition.

(17) No postage or writing materials shall be provided to inmates for routine mail except as provided in this subsection. Postage and writing materials shall be provided to any inmate with insufficient funds for mailing 1 first class letter weighing 1 ounce or less each month to be used for mailing 1 first class letter weighing 1 ounce or less each month. Local procedures may be established to require the inmate to request the free postage and writing materials or to establish a specific day of the month for the free letters to be processed.

(18) Inmates shall not utilize hand-made packages or envelopes to send out routine mail. Mail enclosed in such materials will be returned to the inmate without processing.

(19) Outgoing packages and envelopes will not bear any artwork, additional lettering or designs other than the required address and return address.

(20) No packaging other than standard envelopes shall be given to inmates. Incoming mail that includes the following types of packaging shall be rejected and returned to the sender unopened: any envelopes that include metal parts, boxes, padded envelopes, plastic bags, card stock type envelopes (i.e. US Mail Priority or US Mail Express card board type), multi-layer packaging, bubble wrap, packing peanuts, etc.

(21) Routine mail shall be delivered to the institution or facility by the U.S. Postal Service only.

(22) Inmates shall not use postage stamps as currency to pay for products or services. Postage stamps placed in outgoing mail for this purpose will be deemed contraband. Incoming mail that solicits inmates to purchase products or services and allows payment with postage stamps will be rejected.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 10-8-76, Amended 10-11-77, 4-19-79, 11-19-81, 3-12-84, 10-15-84, Formerly 33-3.04, Amended 7-8-86, 9-4-88, 3-9-89, 9-1-93, 9-30-96, 5-25-97, 6-1-97, 10-7-97, 5-10-98, Formerly 33-3.004, Amended 12-20-99, Formerly 33-602.401, Amended 12-4-02, 8-5-03, 10-27-03, 9-20-04, 3-23-08, 7-2-09, 5-9-10, 12-5-12, 4-1-13.

33-210.102 Legal Documents and Legal Mail.

(1) All inmates shall have a right of unhindered access to the courts. No provision of this rule shall be applied in such a way as to conflict with any rule of court. In any filings or correspondence with state courts, inmates are restricted by Section 92.351, F.S., to mailing paper documents only, unless prior authorization is obtained from the court for inclusion of non-paper materials. No non-paper materials will be forwarded to the court until the inmate presents a court order authorizing the mailing of non-paper documents to the court. Inmates shall be given ample time in which to prepare petitions and other legal documents. These documents will be processed promptly subject to the procedures outlined in this rule.

(2) Legal mail shall be defined as mail to and from the following entities:

- (a) Municipal, county, state and federal courts.
- (b) State attorneys.
- (c) Private attorneys.
- (d) Public defenders.
- (e) Legal aid organizations.
- (f) Agency clerks.
- (g) Government attorneys.

(3) Legal mail shall be delivered to the institution or facility by the U.S. Postal Service only.

(4) Inmates shall be allowed to prepare legal documents and legal mail in their living area. Additionally, some institutions may designate other areas specifically for this purpose.

(5) Preparation of legal documents and legal mail shall only be permitted during an inmate's off-duty time. If a separate area is designated, it must be available for use a reasonable number of hours each week and inmates shall be allowed to go to such place during scheduled periods as soon as practicable after receipt of their request to do so.

(6) Inmates shall be permitted to receive only legal documents, legal correspondence, written materials of a legal nature (other than publications), and self-addressed stamped envelopes through legal mail. No other items may be received through legal mail.

(a) The following items are not permissible for inclusion in legal mail, but are permissible for inclusion in routine mail, along with other materials listed in subsection 33-210.101(2), F.A.C.:

1. Greeting cards, blank greeting cards, stationery or other blank writing paper or envelopes;
2. Articles or clippings or other written materials of a non-legal nature;

3. Photographs, unless related to the inmate's legal case. If related to the case, the photographs shall still be subject to restriction based on content if the photographs present a threat to the security or order of the institution or the rehabilitative interests of the inmate. Polaroid photographs are prohibited;

4. U.S. postage stamps, the value of which cannot exceed the equivalent of 20 (1 oz.) first class stamps.

(b) The following items which are prohibited for receipt in routine mail are also not permissible for inclusion in or attachment to legal mail:

1. Non-paper items;
2. Items of a non-communicative nature such as lottery tickets or matchbooks;
3. Stickers or stamps (other than postage stamps, postal service attachments, and address labels affixed to outside of envelope);
4. Address labels (other than those affixed to the outside of the envelope);
5. Laminated cards or other laminated materials.

(c) Inmates shall be responsible for informing their legal correspondents of the regulations concerning incoming legal mail.

(7) When an inmate is prohibited from receiving any item of legal mail, the inmate and the sender will be notified in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. Form DC2-521, Unauthorized Mail Return Receipt, will be placed in the original envelope with the correspondence and returned to the sender. If unauthorized items are

discovered in the mail (other than items of an illegal nature), the unauthorized item and the correspondence will be returned to the sender with Form DC2-521, Unauthorized Mail Return Receipt included. Form DC2-521 is incorporated by reference in Rule 33-210.101, F.A.C.

(8) Processing of Legal Mail.

(a) The return address of incoming legal mail shall contain sufficient information to identify the sender as one of the persons or entities identified in subsection (2).

(b) Except as provided in Rule 33-603.103, F.A.C., the address on all incoming legal mail shall contain the inmate's committed name, identification number, institutional name, and address. The inmate's dorm and bunk locations are not required. However, if the addressee can be identified, the mail shall be delivered without delay. When legal mail cannot be delivered because the envelope does not contain enough information for a positive identification of the inmate recipient, the mail will be returned to the sender along with Form DC2-528, Legal Mail – Unable to Deliver. Form DC2-528 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is 4-23-09.

(c) No packaging other than standard envelopes shall be given to inmates. The following types of packaging shall be removed by staff before providing the contents to the inmate: boxes, padded envelopes, envelopes that include metal parts, multilayer packaging, bubble wrap, packing peanuts, or other forms of extra packaging.

(d) All incoming legal mail will be opened in the presence of the inmate to determine that the correspondence is legal mail and that it contains no unauthorized items. Only the signature and letterhead may be read.

(e) If legal mail is written in a foreign language the signature and letterhead shall be translated to confirm that it is legal mail. If the signature and letterhead indicate that it is legal mail, the mail shall be provided to the inmate. If the letterhead and signature cannot be translated by an employee at the facility, the envelope, letterhead, and signature of the correspondence may be photocopied and sent to another institution or the central office for translation.

(f) The return address on all outgoing legal mail must contain the inmate's committed name, identification number, and the institutional name and address spelled out completely. The inmate's dorm and bunk locations are not required. No prefix other than inmate, Mr., Ms., Miss, or Mrs., or any suffix other than Jr., Sr., or Roman numerals such as II or III may be included as part of the committed name in the return address. If the inmate's committed name or identification number is missing, the letter shall be returned to the inmate for proper addressing. If the institutional name or address is incomplete, the institution is authorized to stamp all outgoing legal mail with the complete institutional name and address and shall mail it without delay. All outgoing legal mail will be stamped "mailed from a state correctional institution" by mail room staff.

(g) Inmates shall present all outgoing legal mail unsealed to the mail collection representative to determine, in the presence of the inmate, that the correspondence is legal mail, bears that inmate's return address and signature, and that it contains no unauthorized items. Only the address may be read to determine whether it is properly addressed to a person or entity identified in subsection (2) of this rule. If the outgoing mail contains unauthorized items or is not legal mail, the inmate shall be subject to disciplinary action. If the outgoing mail is legal mail and it contains no unauthorized items, the mail collection representative shall stamp the document(s) to be mailed and the inmate's copy, if provided by the inmate. The date stamp shall be in the following format: "Provided to (name of institution) on (day, month and year blank to insert date) for mailing, by (officer's initials)." The mail collection representative shall then have the inmate initial the document(s) next to the stamp and have the inmate seal the envelope in the mail collection representative's presence. For confinement areas, the staff member who picks up the legal mail each day shall stamp the documents, have the inmate place his or her initials next to the stamp, and have the inmate seal the envelope in the staff member's presence. The use of mail drop boxes for outgoing legal mail is prohibited.

(h) Incoming and outgoing legal mail that is properly addressed and otherwise in compliance with applicable rules shall not be held for processing for more than 24 hours of receipt by the mail room, excluding weekends and holidays.

(9) Inmates shall be allowed to keep legal material in their living area subject to storage limitations. The Department of Corrections will not be responsible for lost or stolen or misplaced legal materials. The institution shall provide white paper, envelope(s), and pen for the preparation of legal documents and legal mail for those inmates without necessary funds to purchase their own paper, envelopes, and pen. Inmates shall not utilize hand-made envelopes or packages to send out legal mail. Mail enclosed in such materials will be returned to the inmate without processing. Outgoing packages and envelopes will not bear any artwork, additional lettering or designs other than the required address and return address.

(10)(a) The institution shall furnish postage for mail to persons or entities identified in subsection (2), for pleadings to be served

upon each of the parties to a lawsuit and for mailing a complaint to the Florida Bar concerning ineffective assistance of counsel in the inmate's criminal case for those inmates who have insufficient funds to cover the cost of mailing the documents at the time the mail is submitted to the mailroom, but not to exceed payment for the original and two copies except when additional copies are legally required. The inmate shall be responsible for proving that copies in addition to the routine maximum are legally necessary. Submission of unstamped legal mail to the mailroom or mail collection representative by an inmate without sufficient funds shall be deemed to constitute the inmate's request for the institution to provide postage and place a lien on the inmate's account to recover the postage costs when the inmate receives funds.

(b) At the time that postage is provided to an inmate for this purpose, the Bureau of Finance and Accounting, Inmate Trust Fund Section, shall place a hold on the inmate's account for the cost of the postage. The cost of providing the postage shall be collected from any existing balance in the inmate's trust fund account. If the account balance is insufficient to cover the cost, the account shall be reduced to zero. If costs remain unpaid, a hold will be placed on the inmate's account, subject to priorities of other liens, and all subsequent deposits to the account will be applied against the unpaid costs until the debt has been paid.

(11) The warden shall designate one or more employees who are Notaries Public to notarize legal material which inmates offer for notarization. Each document presented by an inmate for notarization and mailing which legally requires notarization shall be notarized and mailed immediately, subject to the following conditions:

(a) The inmate shall submit the document to such an employee and the employee shall:

1. Either ascertain that the inmate can read and that he has read the document and understands the same; or in the alternative, shall read the document to the inmate and ascertain that he understands the contents.

2. Such employees shall not accept any document for notarization until the inmate indicates that he is ready for it to be mailed or forwarded. The employee is not required to notarize the inmate's file copy of the document.

(b) Before notarizing an affidavit to any legal material, the employee to whom it is submitted shall inform the inmate that he is a Notary Public and that the inmate will have to swear to the statement in the affidavit before it can be notarized, after which such employee shall require the inmate to hold up his right hand and give an affirmative answer to the following question: "Do you solemnly swear or affirm that the statements made in this affidavit are true?" Such employee shall witness the inmate signing such affidavit after administering such oath to him.

(12) Inmates may assist other inmates in the preparation of legal documents and legal mail. However, no remuneration or consideration may be given or received and such may be subject to disciplinary action.

(13) Anytime legal mail is received for an inmate who has been transferred within the Department, the institution will return the correspondence within 5 working days to the post office with the forwarding address of the facility where the inmate is presently incarcerated. If additional postage is required to forward the legal mail, regardless of the class, to the transferred inmate's new institutional assignment, the Department will pay the cost of this additional postage as long as the mail contained sufficient postage for delivery to its original destination.

(14) Anytime legal mail is received for an inmate who has been released from the Department, it shall be returned to the post office within 5 working days with a forwarding address, if available, and a request will be made to postal authorities to forward the legal mail to the former inmate. If there is no available forwarding address, all legal mail shall be returned to the sender.

(15)(a) All incoming legal mail received for an inmate shall be entered on Form DC2-522, Incoming Legal and/or Privileged Mail Log. The form shall include the inmate's name, DC number, the date the mail was received by the institution, the full address of the sender, the date the mail was received by the inmate, the signature of the inmate, and the initials of the mailroom officer who is present when the inmate signs for receipt of the mail. Form DC2-522 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of the form is 2-23-10.

(b) In the event that the inmate has been released or transferred, in addition to the procedures required by subsection 33-210.102(13), F.A.C., Form DC2-522 shall be completed as required in subsection 33-210.102(15), F.A.C., except that mailroom staff shall write "Transferred" or "Released" in the "Date Mail Received By Institution" section, and shall write the date that the mail was forwarded in the "Inmate Signature" section.

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33-210.103 Privileged Mail.

(1) "Privileged mail" is a category that includes mail to and from public officials, governmental agencies and the news media. This includes mail to and from the Florida Bar.

(2) Privileged mail shall be delivered to the institution or facility by the U.S. Postal Service only.

(3) Inmates shall be allowed to receive only written correspondence and self-addressed stamped envelopes in privileged mail.

(a) The following items are not permissible for inclusion in privileged mail, but are permissible for routine mail along with other materials listed in subsection 33-210.101(2), F.A.C.:

1. Greeting cards, blank greeting cards, stationery or other blank paper or envelopes;
2. Articles or clippings;
3. Photographs;
4. U.S. postage stamps, the value of which cannot exceed the equivalent of 20 (1 oz.) first class stamps;

(b) The following items which are prohibited for receipt in routine mail are not permissible for inclusion in or attachment to privileged mail:

1. Non-paper items;
2. Items of a non-communicative nature such as lottery tickets or matchbooks;
3. Stickers or stamps (other than postage stamps, postal service attachments, and address labels affixed to outside of envelope);
4. Address labels (other than those affixed to the outside of the envelope);
5. Laminated cards or other laminated materials.

(c) Inmates shall be responsible for informing all correspondents of the regulations concerning privileged mail.

(4) When an inmate is prohibited from receiving any item of mail, the inmate and the sender will be notified in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. The Unauthorized Mail Return Receipt, Form DC2-521, will be placed in the original envelope with the correspondence and returned to the sender. If unauthorized items are discovered in the mail (other than items of an illegal nature), the unauthorized item and the correspondence will be returned to the sender with the Unauthorized Mail Return Receipt included. Form DC2-521 is incorporated by reference in Rule 33-210.101, F.A.C.

(5) Processing of Privileged Mail.

(a) All incoming privileged mail shall be opened in the presence of the inmate to determine that the correspondence is privileged mail and that it contains no unauthorized items. Incoming mail from the news media that is correspondence as opposed to a publication shall clearly indicate on the outside of the envelope the nature of the mail in order to put staff on notice that it should be handled pursuant to this rule rather than Rule 33-504.101, F.A.C. ("Admissible Reading Material"), such as by marking it as "privileged," "correspondence," or "not a publication." Only the signature and letterhead of privileged mail may be read. If the incoming mail is not privileged mail, it will be returned to the sender along with a form letter which states that the correspondence is being returned in accordance with subsection (5) of this rule because it was being transmitted under the guise of privileged mail. The inmate to whom the mail was addressed shall receive a copy of the form letter.

(b) Inmates shall present all outgoing privileged mail unsealed to the mail collection representative to determine, in the presence of the inmate, that the correspondence is privileged mail and that it contains no unauthorized items. Only the address may be read to determine whether it is properly addressed to a person or agency listed in subsection (1) of this rule. If the outgoing mail contains unauthorized items or is not privileged mail, the inmate shall be subject to disciplinary action.

(c) Incoming and outgoing privileged mail that is properly addressed and otherwise in compliance with applicable rules shall not be held for processing for more than 48 hours, excluding weekends and holidays.

(6) The address on all incoming privileged mail should contain the inmate's committed name, identification number, institutional name and address. The inmate's dorm and bunk locations are not required. However, if the addressee can be identified, the mail shall be delivered without delay.

(7) The return address on all outgoing correspondence must contain the inmate's committed name, identification number, and the institutional name and address spelled out completely. The inmate's dorm and bunk locations are not required. No prefix other than inmate, Mr., Ms., Miss, or Mrs., or any suffix other than Jr., Sr., or Roman numerals such as II or III may be included as part of the committed name in the return address. If the inmate's name or identification number is missing, the letter shall be returned to the inmate for proper addressing. If the institutional name or address is incomplete, the institution is authorized to stamp all outgoing privileged mail with the complete institutional name and address and shall mail it without delay. All outgoing privileged mail will be stamped "mailed from a state correctional institution" by mail room staff.

(8)(a) Anytime privileged mail is received for an inmate who has been transferred within the department, the institution shall return the correspondence to the post office within 5 working days with the forwarding address of the facility where the inmate is presently incarcerated. If additional postage is required to forward the privileged mail, regardless of the class, to the transferred inmate's new institutional assignment, the department shall pay the cost of this additional postage as long as the mail contained sufficient postage for delivery to its original destination.

(b) Upon receipt of privileged mail, if there is a question that it is privileged mail, the mail shall be opened in the presence of the inmate to confirm that it is privileged mail. If it is confirmed to be privileged mail, it shall be delivered to the inmate. If the mail is not privileged mail, it shall be returned to the sender along with a form letter which states that the correspondence is being returned in accordance with subsections (4) and (8) of this rule because it was being transmitted under the guise of privileged mail. The inmate to whom the mail was addressed shall receive a copy of the form letter.

(c) Anytime privileged mail is received for an inmate who has been released from the department, it shall be returned to the post office within 5 working days with a forwarding address, if available, and a request shall be made to postal authorities to forward the privileged mail to the former inmate. If there is no available forwarding address, all privileged mail shall be returned to the sender.

(d) No postage or writing materials shall be provided to inmates for privileged mail, however the postage and writing materials provided in subsection 33-210.101(17), F.A.C., may be used for this purpose.

(e) Inmates shall not utilize home-made envelopes or packages to send out privileged mail. Mail enclosed in such materials will be returned to the inmate without processing. Outgoing packages and envelopes will not bear any artwork, additional lettering or designs other than the required address and return address.

(9)(a) All incoming privileged mail received for an inmate shall be entered on the Incoming Legal And/Or Privileged Mail Log, Form DC2-522. The form shall include the inmate's name, DC number, the date the mail was received by the institution, the full address of the sender, the date the mail was received by the inmate, the signature of the inmate, and the initials of the mailroom officer who is present when the inmate signs for receipt of the mail. Form DC2-522 is incorporated by reference in Rule 33-210.102, F.A.C.

(b) In the event that the inmate has been released or transferred, in addition to the procedures required by subsection 33-210.103(8), F.A.C., Form DC2-522 shall be completed as required in paragraph 33-210.103(9)(a), F.A.C., except that mailroom staff shall write "Transferred" or "Released" in the "Date Mail Received By Institution" section, and shall write the date that the mail was forwarded in the "Inmate Signature" section.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.11 FS. History—New 9-1-93, Amended 5-25-97, 2-15-98, Formerly 33-3.0052, Amended 12-20-99, Formerly 33-602.403, Amended 5-5-02, 12-4-02, 9-20-04, 7-18-05, 2-13-12.

33-210.104 Institutional Mail.

(1) Only Department of Corrections mail or mail concerning the activities of the department will be processed by institutional staff. Institutional employees shall not receive personal mail at the institution. Personal mail includes any mail dealing with the personal affairs of the employee not directly related to department matters.

(2) The warden of each institution shall designate mail room staff or employees in each department to inspect staff mail introduced into the confines of the secure perimeter. All incoming mail addressed to staff will be opened and inspected to determine whether it contains contraband or is personal in nature.

(a) Mail marked "personal" or "confidential" will be opened by the designated staff in the presence of the receiving employee.

(b) Wardens are authorized to allow designated employees to read staff mail for investigative purposes when necessary to maintain the security and order of the institution. Such reading of staff mail will be to determine if any illegal activity is being conducted or any rule is being violated.

(3) Employees living in staff housing shall be allowed to receive personal mail at the staff housing address.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 12-7-98, Formerly 33-3.0054, Formerly 33-602.404, Amended 12-4-01, 9-6-04.

33-210.105 Community Corrections Mail.

(1) Only Department of Corrections mail or mail concerning the activities of the department will be processed by Community Corrections staff. Community Corrections employees shall not receive personal mail at the office. Personal mail includes any mail dealing with the personal affairs of the employee not directly related to department matters.

(2) The person in charge of each office or bureau shall designate employees to open and distribute mail received.

(3) Mail marked "personal" or "confidential" will be opened by the designated staff in the presence of the receiving employee.

(4) Staff are prohibited from using Department postage to mail personal mail.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History--New 12-7-09.

33-210.201 ADA Provisions for Inmates.

(1) Policy. In accordance with the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et. seq., the Department of Corrections does not discriminate, on the basis of a disability, against any inmate with regard to its programs, services, or activities for which the inmate is otherwise qualified. Inmates shall be provided the opportunity to identify the nature of any disability and to request an accommodation or auxiliary aids. Additional information on the ADA is available from the ADA Coordinator or the Intake Officer of any department facility.

(2) Definitions.

(a) ADA Coordinator – the central office employee assigned to coordinate the department's efforts to comply with and carry out its responsibilities under the provisions of Title I and Title II of the ADA and Section 504 of the 1973 Rehabilitation Act.

(b) Auxiliary aids and services include:

1. Qualified interpreters on-site; notetakers; written materials; exchange of written notes; telephone handset amplifiers; telephones compatible with hearing aids; closed caption decoders; closed captioning; voice and text telecommunications products and systems, including text telephones (TTYs) or equally effective telecommunications devices; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;

2. Qualified readers; taped texts; audio recordings; Brailled materials; large print materials; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;

3. Acquisition or modification of equipment or devices; and

4. Other similar services and actions.

(c) Direct threat – refers to a health or safety risk that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services in which an inmate poses a significant likelihood of substantial harm to department staff, the public, other inmates, or herself or himself.

(d) Disability – refers to a physical or mental impairment that substantially limits one or more major life activities.

(e) Equally effective communication – communication with inmates with various disabilities that is equal to communication with inmates without any documented disabilities.

(f) Health care appliance – refers to devices or medical support equipment prescribed for a disabled inmate and approved by the Office of Health Services or its designee.

(g) Intake officer – refers to the staff member at an institution who is designated to respond to requests for accommodation.

(h) Major life activities – activities that an average person can perform with little or no difficulty, such as caring for one's self, walking, speaking, performing manual tasks, hearing, learning, seeing, breathing, and working.

(i) Mental impairment – any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

(j) Physical Impairment – refers to any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, cardiovascular, respiratory, special sense organs, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(k) Qualified inmate with a disability – refers to an inmate with a physical or mental impairment that substantially limits one or more life activities and who meets the essential eligibility requirements of the department and Title II of the ADA of 1990 and whose access to the department's programs, services, or activities can be accomplished by reasonable accommodation.

(l) Reasonable accommodation – refers to any modification or adjustment that will allow a qualified inmate with a disability to participate in, or make use of the programs, services, or activities of a department institution or facility.

(m) Undue hardship – refers to an action that is excessively costly, extensive, substantial, or disruptive to the business being

conducted at a facility or that would fundamentally alter the nature or operation of the facility.

(3) Accommodation Request Procedure.

(a) The determination of whether an inmate has a disability shall be made by department medical staff, either at reception or at the institution where the inmate is assigned, based upon the inmate's record of an existing physical or mental impairment or qualified evaluation of the inmate.

1. The nature and extent of the disability will be assessed during the evaluation process.

2. In determining if a person's physical or mental impairment substantially limits a major life activity, the following factors shall be considered:

a. The nature and severity of the impairment;

b. The length of time the impairment is expected to last; and

c. The expected, permanent, or long-term impact of the impairment.

(b) All department and privately operated facilities shall furnish to any inmate, upon request, a Reasonable Modification or Accommodation Request, Form DC2-530. Form DC2-530 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-02186>. The effective date of this form is 1-13.

(c) Individuals who have a documented disability and are requesting an accommodation or modification shall submit a request in writing on the Reasonable Modification or Accommodation Request, Form DC2-530, specifying the type of accommodation requested and why it is necessary. Any supporting documentation must be attached to Form DC2-530.

1. The Reasonable Modification or Accommodation Request, Form DC2-530, shall be submitted to the warden or the designated intake officer. The designated intake officer shall be:

a. The assistant warden for programs (AWP) or the assistant warden (AW) at major department institutions, in the event the institution does not have an AWP; and

b. The correctional officer major at work release centers.

2. Inmates who cannot put their requests in writing shall make their verbal requests to classification, security, the warden, or to the intake officer who shall reduce the request to writing onto the DC2-530 and have the inmate sign or otherwise acknowledge it.

(d) The warden or the intake officer shall review the DC2-530 and approve, give modified approval of, or deny the inmate's request for an accommodation. The warden or intake officer shall request additional information from the Chief Health Officer as necessary to verify the inmate's disability or to assist with the review of the request.

1. If the warden or intake officer approves the request for accommodation, the inmate and the ADA coordinator shall be notified by memo, with the anticipated completion date, if necessary, of the accommodation.

2. If the warden or intake officer denies or grants a modified approval of the request, she or he shall forward the form, and any supporting documents, to the ADA coordinator within ten (10) days, including a justification or reason for the denial or modification. The requesting inmate shall be notified of the action taken by memo.

(e) The ADA coordinator shall review the request received and note whether she or he concurs or disagrees with the warden or intake officer's decision.

1. If the ADA coordinator disagrees with the warden or intake officer's recommendation, she or he will consult with the appropriate central office program area in which the accommodation is requested to obtain input.

2. If, after consulting with the appropriate central office program area in which the accommodation is requested, the recommendation of the ADA coordinator is a reversal of the warden's or intake officer's decision, the form shall be returned to the warden or intake officer with a memorandum stating the reasons for this action.

(f) Once the institution receives this information, it will take steps to comply with the recommendations of the ADA coordinator and notify the inmate of the actions to be taken and the ADA coordinator when the action has been taken by memo.

(g) Copies of the requests and all other documentation shall be placed in the inmate's medical file and in the department's confidential ADA file located in central office.

(4) Justification for Denial of Requests for Accommodation. A request for a particular accommodation shall be denied for any of the following reasons:

(a) A legitimate penological interest:

1. A request for a particular accommodation shall be denied when it would pose a risk to the safety or security of the institution, staff, or the public, or when the request would adversely impact other penological interests, including deterring crime and

maintaining inmate discipline.

2. In all determinations of reasonable accommodation, public safety and the health, safety, and security of all inmates and staff shall remain the overriding considerations.

(b) The department need not take an action to provide accessibility to a service, program or activity if the action would impose or require:

1. An undue financial burden on the agency where, in a cost benefit analysis, its costs would be an unjustifiable use of public funds.

2. An undue administrative burden on the agency; or

3. A fundamental alteration of the nature of the service, program, or activity.

(c) An institution cannot deny a request for accommodation using the undue burden defense without contacting the ADA Coordinator. The ADA coordinator shall consult with the appropriate central office program area in which a particular accommodation is requested and any necessary department staff before making a determination that a requested accommodation would constitute an undue financial or administrative burden on the agency or a fundamental alteration to the nature of a service, program, or activity. The final decision that compliance with the requested accommodation would result in an undue financial or administrative burden or a fundamental alteration of the nature of a service, program, or activity shall be made by the Secretary or his or her designee after consideration of all resources available for use in the funding and operation of the service, program or activity. The final decision must be accompanied by a written statement of the reasons for reaching the conclusion. The decision and the statement will be retained in the confidential ADA file.

(d) Direct Threat. The ADA coordinator will consult with the warden, the appropriate central office program area in which the particular accommodation is requested, and any other necessary departmental staff prior to determining a requested accommodation poses a direct threat.

(e) Equally Effective Means. A request for a particular accommodation shall be denied if equally effective access to a program, service, or activity can be afforded through an alternate method which is less costly or intrusive. Alternative methods that are less costly or intrusive to the existing operation or program shall be utilized to provide reasonable access in lieu of modifications requested by the inmate so long as they are equally effective.

(f) A request that does not present a violation of Title II of the ADA will be denied as not qualifying as an ADA issue.

(5) Complaints and Accommodation Appeals. Inmates who have a complaint alleging a violation of the Americans with Disabilities Act or who want to appeal the denial of a request for accommodation shall follow the guidelines set forth in Chapter 33-103, F.A.C.

(6) Auxiliary Aids. The Department will provide inmates with auxiliary aids whenever necessary to ensure equal access to programs, services, or activities offered by the Department. When an auxiliary aid is deemed necessary to provide an inmate with an equal opportunity to participate in a program, service or activity, it shall be provided at the expense of the department.

(7) Health Care Appliances.

(a) Prescription and approval.

1. A physician or clinical associate shall prescribe and approve health care appliances for eligible inmates if these devices meet medical necessity, safety, and security requirements. Health care appliances include orthopedic prostheses, orthopedic braces or shoes, crutches, canes, walkers, wheelchairs, hearing aids, and other items which are necessary to accommodate the inmate's needs.

2. If security staff denies a health care appliance to an inmate for safety or security reasons, the Chief of Security, or his or her designee, shall immediately consult with the Chief Health Officer, or his or her designee, to determine necessary action to accommodate the inmate's needs.

3. Accommodations shall include modifying the appliance or substituting a different appliance at the department's expense, as long as, its function is equivalent or superior.

(b) Possession of Health Care Appliances.

1. Health care staff shall identify health care appliances as property of the inmate and appropriately document them as such in accordance with Rule 33-602.201, F.A.C.

2. Any health care appliance the disabled inmate has properly obtained while in the department's custody shall not be removed unless there are legitimate documented safety or security reasons.

3. Health care appliances shall be removed if a physician or dentist determines that the appliance is no longer medically necessary or appropriate.

(c) Maintenance of Health Care Appliances. It is the joint responsibility of the department and the inmate to maintain all health care appliances in good repair and operation. When an appliance is in need of repair or replacement, the inmate shall notify health care staff of his or her needs by a medical call-out or a request to see a doctor.

1. Health care staff shall schedule the inmate for an appointment and evaluate the condition of the appliance.

2. Once the need for repair or replacement is verified, the inmate shall be issued an appropriate appliance or accommodation.

(8) Educational and work programs. Inmates with disabilities shall have the opportunity to participate in educational and work programs.

(a) Inmates shall be evaluated to participate in an educational or work program on a case-by-case basis.

(b) Eligibility to participate in any program is dependent on the inmate's ability to perform the essential functions of the program with, or without, reasonable accommodation and on meeting the department's requirement for the program.

(9) Visiting. Inmates with disabilities will be provided reasonable accommodations for purposes of visitation.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History--New 8-19-01, Amended 2-8-06, 11-22-06, 1-23-13, 9-30-13.