


<b>DIRECTIVE/POLICY/PROCEDURES</b>  <b>NORTH DAKOTA</b> <b>DEPARTMENT OF CORRECTIONS</b> <b>AND REHABILITATION</b>		<b>DIRECTIVE/POLICY/PROCEDURE NUMBER:</b> 5D-1
		<b>ACA/ACI/PBS RELATED STANDARDS:</b>  ACI 4-4487, 4-4489, 4-4490, 4-4491, 4-4492, 4-4493, 4-4494, 4-4495
<b>CHAPTER TITLE:</b> 5. Inmate and Juvenile Programs	<b>SECTION:</b> D. Mail, Telephone and Visiting	<b>SUBJECT:</b> Inmate Correspondence; Access to Publications; Inspection of Letters and Packages; Forwarding of Mail

Effective Date: January 8, 2013


**Revision/Review History**

Revised: August 5, 2013

Reviewed:

**Summary of Revision**

Added this paragraph 5-F-1d - Inmates are not allowed to correspond with individuals who have been civilly committed as sexually dangerous individuals, or who are being evaluated for civil commitment as sexually dangerous individuals.

<b>POLICY AND PROCEDURES NORTH DAKOTA STATE PENITENTIARY</b>  <b>NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION</b>		<b>POLICY AND PROCEDURE NUMBER:</b> 5D-1
		<b>APPENDICES:</b> A. Cell Check/Items Pulled B. Screening List C. Rejection of Mail D. Incoming Legal/Official Correspondence
		<b>ACA/PbS RELATED STANDARDS:</b> ACI 4-4487, 4-4489, 4-4490, 4-4491, 4-4492, 4-4493, 4-4494, 4-4495
<b>CHAPTER TITLE:</b> 5. Inmate and Juvenile Programs	<b>SECTION:</b> D. Mail, Telephone and Visiting	<b>SUBJECT:</b> Inmate Correspondence; Access to Publications; Inspection of Letters and Packages; Forwarding of Mail

1. **AUTHORITY:** Authority for this policy with procedures is found in chapters 54-23.3 and 12-47 of the North Dakota Century Code.
2. **APPLICABILITY:** To all inmates at the North Dakota State Penitentiary and to all staff whose duties involve management of inmate correspondence, especially mail room and housing unit staff that collect and distribute inmate mail.
3. **DEFINITIONS AND ACRONYMS:**
  - A. Bulk Mail: Includes unsolicited publications and materials, sweepstakes application forms, non-subscription publications, and other forms of unsolicited third or fourth class mail.
  - B. CD: A compact disc that contains data accessible to, but not writable by, a computer for data storage and music playback.
  - C. Contraband: Any items or article that is unauthorized.
  - D. DVD: Digital Versatile Disc or Digital Video Disc, used as an optical disc storage.
  - E. Electronic Mail: Department of Corrections and Rehabilitation authorized electronic mail for inmates sent and received by electronic kiosk designated for the purpose of receiving or sending inmate mail.
  - F. Filenet: An electronic storage database.
  - G. Inmate: A person housed in a Department of Corrections and Rehabilitation facility or the Dakota Women's Correctional and Rehabilitation Center.
  - H. JPay: A vendor for inmate services to include electronic communications.
  - I. Juvenile: A person who is supervised by an officer of the juvenile court or has been adjudicated unruly or delinquent and placed in the custody of the

Division of Juvenile Services and placed at North Dakota Youth Correctional Center.

- J. Legal Correspondence: Correspondence between an inmate and the courts; licensed attorneys; or a recognized inmate legal services group, such as the American Civil Liberties Union; or the Innocence Project.
  - K. Mail: Letters, cards, publications, or packages delivered by the United States Postal Service or by other established and authorized carriers.
  - L. Official Mail: Mail between an inmate and elected or appointed federal, state, or local officials, or foreign consulates, and includes the North Dakota Department of Labor's Human Rights Division and Protection and Advocacy. Official mail does not include mail between an inmate and the Department of Corrections and Rehabilitation, the Parole Board, or the Pardon Advisory Board, any law enforcement agency, or routine state, federal, or local agency correspondence not marked or identified as confidential by the agency.
  - M. Publication: Any book, booklet, pamphlet, magazine, periodical, newsletter, newspaper, subscribed catalog or similar material published by any individual, organization, company, or corporation that is distributed or made available through any means for a commercial purpose.
  - N. Screening: The entire withholding of inmate correspondence, publications, and packages or reading of parts thereof.
  - O. COS: Chief of Security
4. **POLICY:** The North Dakota State Penitentiary will have procedures governing the institution's mail for inmates, including mail inspection.
5. **PROCEDURES:**
- A. The COS will be responsible for the annual review and update of the procedures related to inmate correspondence. **(4-4487)**
  - B. Inmate Correspondence:
    - 1. The unit manager may recommend the imposition of a limit to the volume of an inmate's mail when it presents safety, security, or cleanliness and order concerns. If the COS approves the limitation, the inmate shall be notified in writing.
    - 2. The COS may impose limitations on correspondence that may be necessary to ensure the safety and orderly running of the institution.
    - 3. Mail received during normal business hours, excluding emergency situations, will generally be delivered within 48 hours after it has been processed, and packages within 72 hours after they have been processed. **(4-4495)** Mail that is in violation of the institution's mail, contraband, and property regulations will not be delivered.
    - 4. Deliberate violations of rules and regulations by inmates may result in disciplinary action or referral for prosecution to appropriate authorities.

5. Social correspondence that cannot be screened for security purposes including electronic social sites such as Internet Pen Pal pages, Facebook and MySpace are prohibited and constitute unauthorized contact with the public.
6. Inmates are prohibited from using mail to solicit or otherwise commercially advertise for money, goods, or services. For the purposes of this rule this includes advertising for pen-pals.
7. Inmates are not prohibited from corresponding with pen pals, but inmates are prohibited from placing advertisements that solicit pen pals. Inmates who post advertisements or have advertisements posted with the assistance of another individual, including family members, and including advertisements in printed or electronic media, will be subject to disciplinary action.

C. Incoming and Outgoing Mail:

1. A staff member shall collect outgoing mail from mailboxes located in each housing unit daily, and take the mail to the mailroom.
2. All eligible incoming mail will be delivered to the housing unit to be given to the inmates, at an established time on weekdays with the exceptions of holidays. Newspapers may be delivered on weekends.
3. Incoming non-legal certified or registered mail for inmates will be opened and inspected the same as all other mail and sent to the housing unit with the inmate's legal or official mail card attached for the inmate's signature.
4. All unsolicited third and fourth class mail is prohibited.
5. Drawings, artwork, or designs on the outside of outgoing mail are prohibited.
6. Inmates are prohibited from entering any contests, sweepstakes, or other games of chance.
7. All incoming mail must have a full, legible, and legitimate return address that must include the sender's full name, street address or post office box number, city, state, and zip code. Any incoming mail without a complete return address is prohibited.
8. All outgoing correspondence will be stamped identifying the writer as an inmate in a correctional institution.
9. Incoming correspondence of any type for inmates that contains material in an electronic format (CD, DVD, or other electronic storage device requiring a mechanical and electronic player), is prohibited.

- D. Incoming mail may include paper letters, personal drawings or artwork, permanently signed or marked non-musical greeting cards and post cards. Photographs are limited to 20 per envelope; multiple photos on a single page copied from a computer printer are considered one individual photo and multiple copies of the same photograph are not allowed. If an incoming

envelope contains more than 20 photographs all photos will be rejected and a rejection notice will be sent to the inmate. Neither staff, nor the inmate may select 20 photos to be kept. No photographs of inmates taken during incarceration are allowed. Additional pages identified as clippings, acceptable copies from the Internet, photocopies or other material not considered social or personal writings cannot exceed four pages. If the contents of the envelope exceeds four pages of clippings, acceptable pages from the Internet, photocopies or other material not considered social or personal writings all pages will be rejected and neither staff nor the inmate may select four pages.

E. Electronic Correspondence:

1. Inmates are allowed electronic correspondence through kiosks located in the housing unit dayrooms or main gym.
2. Inmates must set up an account through JPay to use the system.
3. Inmates may purchase stamps to communicate with others. Return stamps may be purchased by the sender. Electronic mail requires postage paid prior to sending.
4. All electronic communication must be released by administrative services mail staff before an inmate is able to send or receive the communication. Electronic mail will be screened the same way as correspondence delivered by the United States Postal Service or by other established and authorized carriers.
5. Electronic mail will not be processed as legal or official mail. Legal or official mail must be in paper and envelope format.

F. Restricted Correspondence:

1. Inter-facility communication is limited. Written requests to correspond with other inmates must be sent to the COS. Inmates within DOCR facilities will not be allowed to correspond with inmates in other facilities unless the following provisions are met:
  - a. The written correspondence is with an immediate family member in another correctional facility and the inmates have received prior permission from both facilities for written communication. Immediate family includes mother, father, sister, brother, spouse and legal children.
  - b. Federal inmates must obtain permission from the Bureau of Prisons to correspond with inmates in other institutions.
  - c. Inmates are not allowed to correspond with anyone in a county jail.
  - d. Added this paragraph 5-F-1d - Inmates are not allowed to correspond with individuals who have been civilly committed as sexually dangerous individuals, or who are being evaluated for civil commitment as sexually dangerous individuals.

2. The COS may, at the written request of a parent or guardian of a juvenile, terminate the correspondence of a juvenile who corresponds with an inmate, and shall notify the inmate of the decision.

G. Indigent Inmates:

1. Outgoing legal or official correspondence initiated by an indigent inmate may only be mailed in accordance with the following requirements. These requirements extend only to first class postage and do not include registered or certified mail.
  - a. To be eligible for indigent status, an inmate must have \$15.00 or less of spendable money in his spending account through the prior month. This includes spending balances carried over from prior months. The inmate shall also be actively seeking a job and cannot have quit work, refused to work, or have been fired from a job or work assignment. Indigent inmates will be allocated up to \$4.00, each month, to cover postage for personal letters, legal or official letters, and photocopying. **(4-4489)**
  - b. Indigent inmates are expected to plan their legal work so as not to exceed the \$4.00 monthly allowance. The Warden may authorize more than the monthly allowance if the inmate makes a special request to the Warden and can verify the additional costs are required to meet a court deadline that month.
  - c. Non-indigent inmates may be allowed to incur a postage debt for outgoing legal or official mail upon a showing of justification. Specialized services will not be authorized.

H. Access to Publications:

1. Publications will be accepted, if directly sent from the publisher or clearing house, and if the publication does not present any safety, security, or institutional order or discipline problems for the facility, or to any individual, or the public, is not contrary to the treatment and rehabilitation of the inmate, and does not violate the DOCR contraband rules. If any part of the publication will be rejected, the entire item will be rejected, with the exception of attached advertised items such as free samples or CD's in which case the item can be removed; a notice sent to the inmate directing the item be sent out of the institution and the publication given to the inmate. **(4-4490)**
2. The improper storage, care, and disposal of material received or created poses a threat to the security, good order, or rehabilitative goals of the institution. Therefore:
  - a. All sexually suggestive publications or material must be stored in a secure compartment inside the inmate's personal living quarters. Publications or material that cannot be properly stored becomes contraband and is subject to confiscation.
  - b. All publications must remain in the possession of the subscriber, fully intact, and complete with the proper inmate

identification (written by staff or tagged) in place. Publications in non-compliance will be confiscated, the Cell Check/Items Pulled form completed, and sent to the property officer pending resolution or adjudication. Publications will not be returned and the inmate may be subject to disciplinary action, unless the DOCR makes a determination the inmate and the publication are in compliance with facility rules and the inmate may possess the publication.

I. Inspection of Letters and Packages: **(4-4491)**

1. All letters and packages addressed to inmates will be opened and inspected for contraband. Letters and packages may also be inspected by other methods, including x-ray. Correspondence and packages that are clearly identified as legal or official mail will only be opened and inspected for contraband in the presence of the inmate.
2. Correspondence and publications may be rejected if the content constitutes a risk to the safety and security of the facility, specific individuals or the general public or the failure to comply with correspondence rules or regulations. These restrictions shall be imposed with written approval from the COS.
3. Money received shall be removed and credited to the inmate's account according to the Inmate Fund Accounts policy, unless there is reasonable evidence or just cause to show the money is intended for illegitimate activities including paying for debts, contraband, extortion, protection or other acts. In cases where the money is rejected, the inmate will receive a Rejection of Mail notice. The inmate may receive an incident report for a rule violation. **(4-4493)**
4. If it becomes necessary to screen an inmate's general correspondence, a Screening List form shall be forwarded to the mail clerk from the COS or Deputy Warden. A record of mail screened shall be maintained and reviewed by the COS which includes:
  - a. Inmate's name and number.
  - b. Name of sender.
  - c. Date letter received and read.
  - d. Name of staff who read the mail.
5. A screening list shall be maintained by the assigned mail staff and shall include the rationale for screening. The screening list shall be reviewed quarterly at a minimum by the COS and documented in the monthly report to the Warden. Screening of general inmate correspondence may only be done by authorized institutional staff.
  - a. Authorized staff shall retain any mail that is detrimental to the safety and security of the facility, or is to facilitate criminal activity.

- b. Criteria for rejection of an inmate's incoming or outgoing correspondence, publication or packages includes:
- 1.) The material involves criminal activity or the facilitation or solicitation of criminal activity, or constitutes a risk to the safety and security of the facility, to specific individuals, or to the general public.
  - 2.) The material contains contraband or information, plans, or directions to deliver contraband into or out of the institution, or within the facility. For purposes of mail, contraband includes anything that is in violation of state or federal criminal laws or in violation of institutional rules or policies.
  - 3.) The material involves escape activities, including escape plans.
  - 4.) The material is in a language other than English, and the inmate is not on the limited English proficiency list, or some or all of the material is in code and staff does not understand its contents.
  - 5.) The material includes photographs containing sexually suggestive images including nudity or exposed genitalia, breasts or buttocks, either openly or through clothing.
  - 6.) The material advocates racial, religious, or national hatred, or against institutional staff or other inmates.
  - 7.) The material includes photographic portrayal of, or information on, bestiality, child nudity or child sexual activity, photographic portrayal of sexual activity including fellatio, cunnilingus, masturbation, ejaculation or sexual intercourse that shows actual penetration of any body cavity, or is in violation of federal or state criminal law.
  - 8.) There is a court order or criminal judgment and sentence prohibiting contact between the victim and the individual.
  - 9.) At the written request of any parent or guardian regarding any minor in their care. All requests will be retained in Filenet.
  - 10.) The material portrays gangs, advocates gang behavior, involves gang activity, or includes gang-related symbols, gang code, hand signs or other covert communication.
  - 11.) The material tested positive for an illegal substance. An illegal substance includes any substance that is an illegal drug under state or federal law or is prohibited under the institution's rules.



- 12.) The letter is being held for investigation.
  - 13.) The letter is being returned to the sender as unauthorized correspondence in accordance to the DOCR mail policy.
  - 14.) Inmate drawings, artwork, or designs on the outside of outgoing mail are prohibited.
  - 15.) "Bill Me Later" correspondence.
  - 16.) Contests, sweepstakes, or games of chance.
  - 17.) Photographs that include DOCR staff.
  - 18.) The material includes a solicitation, request, or demand for gifts of goods or money from a source other than a family or persons on the inmate's approved visiting list.
  - 19.) Contains items that pose a safety or sanitation concern, has strange odors, including lipstick or other foreign substances and perfumes.
  - 20.) Duplicate photos and photographs of inmates taken during incarceration.
6. If any material is rejected, the inmate will be given written notice using the Rejection of Mail notice by staff with an explanation. The inmate will be given an opportunity to appeal, in writing, to the Warden within seven days of receiving the notice. Rejected mail, publications or items removed from the mail and rejected will be held for no more than 60 days. Any mail remaining in the hold file after 60 days with no forwarding address from the inmate will be destroyed.
  7. When deemed necessary to remove any item from incoming or outgoing mail, a written record using the Rejection of Mail notice shall be made of items removed. Such record shall include:
    - a. Inmate name and number.
    - b. Description of mail in question.
    - c. Description of action taken and the reason for such action.
    - d. Disposition of the item received.
    - e. Signature of staff.
  8. A Rejection of Mail notice shall be sent to the inmate when contraband is removed from their mail. This notice shall indicate the nature of the contraband and request disposal instructions, if applicable. The inmate may appeal the withholding decision to the Warden. Contraband may be discarded if no appeal is made, or if it is denied and the inmate does not indicate a disposition within 60 days. Contraband that is illegal shall be turned over to law enforcement authorities. **(4-4494)**

9. Outgoing mail may be inspected if the individual is on the screening list as developed by the COS; or there is reasonable suspicion to believe the mail is detrimental to security or order of the facility; or it might facilitate criminal activity as defined by the North Dakota Century Code or federal laws.
- J. Processing of Legal or Official Correspondence:
1. Staff may inspect outgoing legal or official mail for contraband before the correspondence is sealed, but only in the presence of the inmate unless the inmate has consented, in writing, to having the mail opened and inspected outside the inmate's presence, or there are circumstances that justify inspection of the mail outside the inmate's presence.
  2. Legal or official correspondence may be opened to inspect for contraband only in the presence of the inmate, unless the inmate has consented, in writing, to having the mail opened and inspected outside the inmate's presence, or there are circumstances which may indicate the correspondence is contaminated or presents a danger to others, such as it may contain explosives or airborne or contact diseases.  
**(4-4492)**
  3. Inmate legal or official mail must be clearly identified on the outside of the envelope. Incoming or outgoing legal or official correspondence will only be treated as legal or official correspondence if the name, official status, and full legitimate address of the recipient (outgoing) appear on the envelope or in the return address (incoming).
  4. Correspondence or packages marked as "legal mail", "official mail," confidential mail", or as mail containing "legal materials", "official materials", or "confidential materials", may be opened outside of the presence of the inmate if the correspondence or package comes from an inmate's family member, another correctional facility, or an individual who is not a licensed attorney, or the mail cannot otherwise be verified as legal or official mail.
  5. Incoming or outgoing legal or official correspondence may be held for a reasonable period of time, not to exceed 48 hours, to verify the sender or addressee as eligible for legal or official correspondence status.
  6. The mail clerk shall log in all incoming legal or official correspondence on the Incoming Legal/Official Correspondence form and note if the letter was unopened or opened and the date the letter was received. Legal or official correspondence will then be forwarded to the addressee's housing unit. Staff will meet with the inmate and open the envelope in the inmate's presence and visually inspect the contents for contraband. Staff will not read the contents of the correspondence. Once the envelope has been searched, staff shall give the inmate the privileged correspondence. The Incoming Legal/Official Correspondence form will accompany the correspondence to the housing unit where the inmate has the option to sign for the correspondence. The housing unit staff shall also sign that the correspondence was delivered to the inmate. The Incoming Legal/

Official Correspondence form will then be returned to the mail clerk for scanning into the inmate's case history file.

7. Housing unit staff will issue a Cell Check/Items Pulled slip for any item pulled from incoming legal or official correspondence. The Cell Check/Items Pulled slip and the item will then be forwarded to administrative services.

K. Forwarding of Mail:

1. First class mail will be forwarded if an address is available. If an address is not available, letters and packages should be returned to sender. If an inmate is on temporary leave status, their mail will be held with the exception of legal mail, which, when possible, will be forwarded if the inmate is on temporary leave status for more than seven days.
6. **SIGNATURE:** This policy with procedures becomes effective when signed by the Director of the Department of Corrections and Rehabilitation.

***This copy has been approved by the Director with the original signature on file.***