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5120-9-17 Incoming mail.

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(A) Mail in the form of first class letters or electronic mail addressed to an inmate shall not be withheld except as provided in this rule. There shall be no limitation on the number of first class letters that an inmate may receive nor the number of persons with whom an inmate may correspond.

(B) Inspection of incoming mail:

(1) All mail, including electronic mail, other than legal mail, shall be opened and may be read or copied in the institution mail office and inspected for the presence of contraband, unauthorized forms of funds, and other threats to the security and safety of the institution. The written portion of the mail shall then be promptly delivered to the inmate, unless withheld in accordance with paragraph (G) of this rule.

(2) "Legal mail" is mail addressed to an inmate clearly bearing the return address of an attorney-at-law, a public service law office, a law school legal clinic, court of law, or the correctional institution inspection committee. It may be opened and inspected for contraband only in the presence of the inmate-addressee. "Legal mail" does not include postcards from a court of law that indicates fees and/or fines owed by the inmate-addressee.

(3) Electronic mail is offered to inmates as an additional means of communication. Because electronic mail received for inmates is delivered to the inmate recipient in printed form, this form of communication is not suitable for confidential legal communications or legal mail. Inmates shall be instructed not to use electronic mail for confidential legal communications. "Legal mail" shall be restricted to the traditional mail format.

(C) The warden or his designee shall determine the disposition of contraband pursuant to rule [5120-9-55](#) of the Administrative Code. The contraband may be returned to the sender, confiscated as evidence, held for the benefit of the inmate-addressee, or otherwise disposed of in a manner consistent with the law.

(D) All funds mailed to inmates shall be processed in accordance with rule [5120-5-02](#) of the Administrative Code.

(E) A letter or electronic message that is incorrectly addressed may be returned to the sender after a reasonable effort to ascertain the identity of the addressee has failed.

(F) Telegrams and electronic mail may be reviewed prior to delivery.

(G) Mail, including electronic mail, that presents a threat to the security and safety of the institution, its staff or inmates, may be withheld from the inmate-addressee. No material or correspondence will be considered to present such a threat solely on the basis of its appeal to a particular ethnic, political, racial or religious group. To constitute

such a threat, the correspondence must meet at least one of the following criteria:

(1) The correspondence incites, aids, or abets criminal activity or violations of departmental rules, such as, but not limited to, rioting, extortion, illegal drug use or conveyance of contraband.

(2) The correspondence incites, aids, or abets physical violence against others, such as, but not limited to, instructions in making, using, or converting weapons.

(3) The correspondence incites, aids, or abets escapes, such as, but not limited to, instructions on picking locks or digging tunnels.

(4) The correspondence is in code or cipher.

(H) Procedures for withholding correspondence are as follows:

(1) The initial decision to withhold the correspondence will be made by the officer charged with inspecting it, with the concurrence of the mail room supervisor.

(2) The inmate-addressee and the author of the correspondence will be notified, in writing, that the correspondence was withheld. The notification will:

(a) Identify the inmate-addressee by name and number.

(b) Identify the author by name and address.

(c) Include a description of the correspondence by date or otherwise.

(d) Include a brief statement of the reason the correspondence is being withheld.

(e) Inform the author of the procedure for appeal, including the time for appeal.

(f) Identify the person to whom the decision to withhold the correspondence is to be appealed.

(3) The notification will be sent to the author and the inmate-addressee within seven calendar days of the decision to withhold, unless the warden determines that the notification will interfere with the conduct of a pending investigation.

(4) Decisions to withhold mail, including electronic mail, may be appealed in writing by the author to the warden or his designee within fifteen calendar days of the date of the mailing of the notification. The appeal should explain why the correspondence does not present a threat to the security and safety of the institution, its staff or inmates.

(5) The written appeal and the correspondence will be considered by the warden or designee who shall determine whether the correspondence will be withheld or delivered to the inmate.

(6) Any correspondence withheld from an inmate-addressee will be retained during the pendency of the appeal or

for the time in which an appeal may be filed.

(7) If it is determined on appeal that the correspondence does not present a threat to the safety and security of the institution, its staff or inmates, the correspondence will be immediately delivered to the inmate-addressee.

(8) If it is determined on appeal that the correspondence presents a threat to the safety and security of the institution, its staff or inmates, or, if no appeal is taken, the mail may be returned to the author, held as evidence for criminal prosecution or a disciplinary proceeding, or destroyed.

(I) Mail, including printed electronic mail, in the possession of an inmate may, when approved by the warden or his designee, be seized, read, and copied where a reasonable belief exists that it may contain evidence of a violation of federal or state law or departmental rules. If a staff member reasonably believes there is a present risk of destruction of such mail, it may be seized and forwarded to the warden or his designee for review.

(J) Advertising mail, commonly known as "junk mail" and advertising in the form of electronic mail, commonly known as "spam", which include, but are not necessarily limited to promotional offers, drawings, sweepstakes, lotteries and other promotional campaigns, which proposes a commercial transaction and which taken as a whole, is not a personal communication uniquely composed for a specific individual, may be withheld from the addressee. Junk mail may be returned to the sender if return postage is guaranteed, or it may be destroyed at the institution if not. No notice or other process need be provided to the addressee or the addresser in such circumstances, any other provision in this or any other rule of the Administrative Code notwithstanding. The only exception to this paragraph shall be for catalogues for mail-order purchases, as approved by the office of prisons, provided that the contents of the catalogue are subject to the screening criteria for printed materials in rule [5120-9-19](#) of the Administrative Code.

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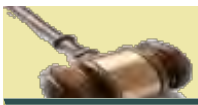
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5120-9-18 Outgoing mail.

(A) There shall be no limitation on the number of letters that an inmate may send, nor shall there be any restrictions as to persons with whom an inmate may correspond, except as provided in this rule.

(B) Postage and embossed envelopes shall be available for sale in the institution commissary. Inmates may send one letter each month at state expense.

(C) Legal mail is mail addressed to an attorney at-law, a public service law office, a law school legal clinic, a court of law, or the correctional institution inspection committee. Such mail must be clearly addressed reflecting one of the above addressees and be marked "legal mail" by the inmate.

(D) Electronic mail is offered to inmates as an additional means of communication. This form of communication is not suitable for confidential legal communications or legal mail. Inmates shall be instructed not to use electronic mail for confidential legal communications. "Legal mail" shall be restricted to the traditional mail format.

(E) Inmates shall seal their own first class letters, except in instances where there is to be an enclosure of money or documents held by the institution.

(F) All outgoing mail, including electronic mail, shall be clearly identified by the sender's name, institution number and return address. Any outgoing mail not so identified may be opened and read for the purpose of identifying the sender. All outgoing letters from inmates shall be stamped on the front or back of the envelope with a stamp identifying:

- (1) That the letter is inmate correspondence; and
- (2) the sending institution's name and address.

(G) Inmates are prohibited from sending any letter or electronic mail:

- (1) That is threatening,
- (2) That incites, aids or abets or constitutes criminal activity or violations of departmental rules,
- (3) That is, or contains evidence of criminal activity or violations of departmental rules,
- (4) That is in code or cipher,

- (5) That would present a threat to the safety and security of the institution, its staff or inmates,
- (6) To any person who the inmate has been advised has notified the warden that he or she is being harassed by the inmate and does not want to receive correspondence from the inmate,
- (7) To any person, firm, association, or other entity for the purpose of soliciting funds or property without the prior approval of the warden. This provision does not apply to lawful requests made by an inmate for funds from an individual approved to send money to the inmate.
- (8) That contains funds being sent to any person not on the inmate's approved visiting list.
- (H) Any violation of the preceding procedures and prohibitions by the inmate shall be considered a violation of the inmate rules of conduct and may result in disciplinary action. Sanctions for such violations may include a restriction of the inmate's mail privileges for a specific period of time. Any mail restriction imposed must be only the minimum required to prevent future abuses of the mail privilege.
- (I) Except as provided in paragraph (E) of this rule, outgoing non-legal inmate letters may only be opened, read, copied, or withheld, and electronic mail may only be withheld when the warden or designee has a reasonable belief that the inmate's correspondence meets one of the criteria listed in paragraph (G) of this rule. In such cases the following procedures shall be followed:
- (1) The warden or designee shall make a request in writing to the director or designee stating the name and number of the inmate, the reasons for believing that the mail meets the criteria listed in paragraph (G) of this rule, and the time period for which permission to open, read, copy or withhold the inmate's mail is sought.
- (2) The director or designee shall review the request. The director or designee may order further investigation before granting or denying such request. If approved, the director or designee shall document such approval, the name and number of the inmate and the time period for which such approval is granted. Approval of the director or designee to open, read, copy or withhold such mail shall extend only to the warden or designee.
- (3) The warden or designee shall then record on a log the following information for any outgoing non-legal mail that is approved to be opened: the sender's name and number, the dates of approval to open, read, copy or withhold, the name of the warden's designee, if applicable, the addressee, the date the mail is opened and reviewed, and any action taken as a result of the review.
- (4) If, after reviewing such mail the warden or designee determines that it does not meet any of the criteria listed in paragraph (G) of this rule, the mail shall be promptly forwarded to the addressee. If the correspondence is determined to meet one of the criteria listed in paragraph (G) of this rule, it may be copied and/or read and forwarded to the addressee or retained as evidence pursuant to an investigation and/or subsequent criminal or administrative proceeding, or returned to the inmate, as deemed appropriate by the warden or designee.
- (5) In any case where the correspondence is determined to meet the criteria in paragraph (G) of this rule, and it

would not hinder any ongoing investigation, the inmate shall receive written notice of the withholding of mail and or an appropriately issued conduct report. The notice or conduct report shall identify the correspondence by addressee, date or other description, and include an explanation as to why it is being withheld and/or a conduct report being issued.

(J) Outgoing legal inmate mail may only be opened if there is a reasonable belief that the mail contains contraband. In such cases the following procedures shall be followed:

(1) Request in writing, as soon as practicable, to the director or designee approval to open said legal mail. The request shall include the name and number of the sender, the addressee's name and address as it appears on the envelope, and the reasons for believing the envelope contains contraband.

(2) The director or designee shall review the request and as soon as practicable, approve or disapprove the request. Such approval or disapproval shall be documented in writing and reflect the name of the director or designee approving or disapproving the request.

(3) If the request is denied, the mail shall be promptly delivered to the mail room and processed as outgoing mail without further delay. If the request is approved, the warden or designee shall immediately open the envelope in the presence of the sender. The contents may be inspected only to the extent necessary to determine if it contains contraband.

(4) If contraband is found, it shall be handled in accordance with rule [5120-9-55](#) of the Administrative Code. Any non-contraband contents shall immediately be returned to the inmate who shall be given the opportunity to reseal such contents in another stamped envelope provided by the warden or designee, to be taken to the mailroom to be processed as outgoing legal mail without further delay.

(5) The opening and inspecting of any outgoing legal mail shall be documented on an outgoing legal mail inspector log. The warden or his designee shall record the name of the person inspecting the mail, the date of the inspection, the addressee, the sender's name and number, a description of any contraband found, the disposition of the contraband, and the date any non-contraband contents were mailed.

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5120-9-19 Printed materials.

(A) As used in this rule, "printed materials" means any publication, document or record including, but not limited to, the following: Newspapers, magazines, pamphlets, books, photographs, drawings, and prerecorded magnetic audiotapes.

(1) For purposes of this rule, the term "printed material" does not include either personal letters; or,

(2) Advertising mail as described in paragraph (J) of rule [5120-9-17](#) of the Administrative Code.

(B) An inmate may receive a reasonable number of printed materials subject to the following limitations:

(1) All printed materials are subject to security inspection and review.

(2) Printed materials may be received in reasonable quantities; but only, directly from a publisher or distributor. Inmates may receive printed materials from other sources (e.g., family, friends, etc.) only with the prior approval of the warden or designee

(3) An inmate may not receive or possess videotapes, compact discs, computer discs, or material in any other form or medium not otherwise authorized by this rule without prior approval from the warden or designee.

(4) Each institution may establish and post regulations setting a maximum quantity of printed material which an inmate may possess

(5) No printed material shall be excluded solely on the basis of its appeal to a particular ethnic, racial, or religious audience.

(6) If any part of a publication or other printed material is determined to be excludable under this rule, then the entire publication or other printed material shall be excluded.

(C) Printed material is excludable if it is deemed to be detrimental to, or to pose a threat to the rehabilitation of inmates; the security of the institution; or, the good order or discipline of the institution. Examples of such material include, but are not limited to printed material:

(1) Which facilitates, encourages, incites, promotes, or instructs in, criminal activity such as rioting or illegal drug use.

(2) Which depicts, encourages, incites, or describes activities which may lead to, the use of physical violence

against others.

(3) Which depicts, describes the procedures for, or instructs in the making, using, or concealing of weapons.

(4) Which depicts, encourages, or describes methods of, escape, such as instruction in picking locks or digging tunnels.

(5) Which appears to be written in cipher or code, or that instructs in the use of cipher or code.

(6) Which is sexually explicit material that by its nature or content poses a threat to the rehabilitation of inmates, the security, good order, or discipline of the institution, or facilitates, or encourages criminal activity. Sexually explicit material includes material which:

(a) Depicts or graphically describes genitalia in a state of arousal, such as male erection, or exposure of the clitoris; or,

(b) Depicts or graphically describes homosexual, heterosexual, or auto erotic sex acts including, but not limited to: fellatio, cunnilingus, masturbation, ejaculation, anal or vaginal sexual intercourse or penetration, or manual stimulation of genitalia; or,

(c) Depicts or graphically describes sexual activity involving children; or,

(d) Depicts or graphically describes sexual activity involving sadism, sadomasochism, bondage, or bestiality, or excretory functions; or,

(e) Depicts or graphically describes sexual activity which involves an unwilling participant or in which a participant is the subject of coercion; or,

(f) Depicts, graphically describes, encourages, promotes, or incites homosexual activity in the institution.

(g) As used herein, "graphically describe" means to describe a subject in a lurid manner focusing attention of such subject as the primary topic of the printed material.

(D) All printed material is subject to the following screening procedure:

(1) Initially, printed material shall be screened in the institution mail office.

(2) The mail office supervisor shall forward to the warden, or the warden's designee, any printed material which is reasonably believed to be excludable under the provisions of this rule.

(3) As soon as practicable, the warden, or the warden's designee, shall review the forwarded printed material and shall decide whether the printed material may be permitted into the institution or should be excluded under the provisions of this rule.

(4) If the warden or the warden's designee, determines that the material may be permitted into the institution, then the material shall be promptly forwarded to the inmate.

(5) If the warden, or the warden's designee, determines that the material should be excluded from the institution, this decision shall be promptly forwarded to the inmate in writing.

(6) The written decision shall provide a brief explanation of the reasons for excluding the printed material. The explanation shall be sufficient to inform the inmate of the basis for the decision.

(7) The written decision shall also advise the inmate that he/she can either make an appropriate disposition of the printed material in accordance with paragraph (M) of this rule or request review by the central office publication screening committee.

(8) The warden or designee shall maintain a record of such decisions for at least three years.

(E) The inmate may request that the central office publication screening committee review the warden's decision. The inmate shall make this request in writing and shall state any specific objections he/she has to the warden's decision.

(1) The inmate shall forward this request to the warden or the warden's designee, within fifteen days after receiving the warden's decision.

(2) Failure to timely request review of the warden's decision shall constitute acceptance of that decision and the printed material shall be disposed of in accordance with paragraph (M) of this rule.

(F) If the inmate timely requests review by the central office publication screening committee, the warden or designee shall forward the printed material, together with the notice and written decision concerning it, and any written objections submitted by the inmate, to the central office publication screening committee.

(G) The central office publication screening committee shall consist of the following:

(1) A screening committee coordinator who shall be a member of the staff of the division of legal services, and

(2) At least three reviewers, with at least one of the reviewers being from each of the following offices:

(a) The office of prisons,

(b) The office of the chief inspector, and

(c) The division of legal services (who may be someone other than the publication screening coordinator.)

(H) The central office publication screening committee shall consider the institution's reasons for excluding the material, the inmate's objections, and the criteria and standards set forth in this rule in conducting its review of the material. The central office publication screening committee (hereafter referred to as the PSC) shall complete its

review within a reasonable time and shall determine whether the material should be excluded or permitted and shall state the basis for that recommendation.

(I) If the PSC, determines that the printed material should not be excluded, then the material shall be promptly forwarded to the inmate requesting the review, through the warden or the warden's designee.

(J) If the PSC, determines that the printed material should be excluded, that decision and the reasons therefore, shall be forwarded in writing to the warden of the challenging institution along with the reviewed printed material.

(K) The warden or warden's designee shall notify the inmate requesting the review in writing of the decision and the reasons therefore.

(L) The director or the director's designee, the regional directors, the warden or the warden's designee may initiate a review by the central office publication screening committee of any printed material for a determination whether the material should be excluded consistent with the provisions and procedures of this rule.

(M) Printed material which is excluded pursuant to this rule may be disposed of in any of the following manners:

(1) Upon the inmate's written request, the property may be destroyed or forwarded to an approved visitor at the inmate's expense.

(2) The property may be returned to the sender or the united states postal service.

(3) The property may be held as evidence.

(4) The property may be disposed of in accordance with rule [5120-9-55](#) of the Administrative Code.

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