

GENERAL DISTRIBUTION

FILED

STATE OF WEST VIRGINIA
DIVISION OF CORRECTIONS
POLICY DIRECTIVE

NUMBER: 503.00
DATE: 14 April 2017
SUBJECT: Mail Privileges for Inmates

2017 APR 20 P 12:11

OFFICE WEST VIRGINIA
SECRETARY OF STATE

PURPOSE:

To establish guidelines for incoming and outgoing inmate mail.

REFERENCE:

WV Code §25-1-5, §25-1-18, and §62-13-4; ACA Standards 4-4487 through 4-4496; Altizer v. Deeds, 191 F. 3d 540 (1999)

RESPONSIBILITY:

The Director of Inmate Services shall be responsible for enacting Director's Protocols to ensure compliance with this Policy Directive.

CANCELLATION:

Policy Directive 503.00, dated 01 April 2015.

APPLICABILITY:

This Policy Directive applies to all facilities for General Distribution, and is to be made available for inmate review. This Policy Directive *is not* exempt from Freedom of Information Act requests.

DEFINITIONS:

Attorney/Client Mail: Written mail to or from an inmate with his/her attorney of record. Such mail must clearly state "legal mail" on the envelope or must clearly indicate it is from the inmate's attorney of record.

Emergency Situation: Any significant disruption of normal facility or agency procedure, policy, or activity caused by riot, escape, fire, natural disaster, employee action, or other serious incident.

General Mail: Written communications and letters which are not privileged or attorney/client mail.

Indigent Inmate: Any inmate who has less than \$5.00 in his/her spending or voluntary savings account at any time during the calendar month.

Non-Indigent Inmate: Any inmate who has \$5.00 or more in his/her spending or voluntary savings account at any time during the calendar month.

Private Pornography: Photograph, photocopy, drawing or other graphic representation which depicts a person totally nude or with exposed breasts, genitalia or buttocks and which has not been published for widespread commercial viewing. This category usually consists of, but is not limited to, nude or semi-nude photographs of an inmate's friend, spouse, family member or other person with whom the inmate is or was acquainted.

Privileged Mail: Written mail to or from the courts, counsel, officials of the West Virginia Division of Corrections, state and local Chief Executive Officers, administrator/designee of the Division of Corrections' Inmate Grievance System, and members of the West Virginia Board of Probation and Parole.

POLICY:

I. General Mail Regulations

- A. There shall be no limit on the number of correspondents an inmate may have.
- B. All outgoing envelopes shall contain the inmate's name, OID Number and the address of the facility in which he/she is housed.
- C. Inmates may correspond with any person who is not incarcerated.
- D. Inmates may correspond with other incarcerated inmates, pursuant to the following:
 1. Mail with or between inmates in restrictive housing/segregation is not permitted.
 2. Inmates wishing to correspond with other incarcerated inmates must first receive written permission from the Warden/Administrator of both the sending and receiving facilities.
 3. Inmate to inmate letters must be placed in mail depositories or the Facility Post Office in an open (unsealed), stamped envelope, and are subject to be read by designated facility authorities.

4. Inmate to inmate mail must be only written correspondence and not contain any items, money or other articles.
 5. Inmate to inmate mail must not contain information that is a threat to the life and safety of others or that can be considered disruptive to the orderly administration of any correctional facility.
 6. Inmate to inmate letters will be appropriately stamped on the envelope by the sending facility with initials or abbreviations identifying the sending facility.
- II. Each facility shall provide secure mailboxes, which inmates have access to and establish collection times.
- A. Every effort shall be made to assure that outgoing mail is delivered to the U.S. Postal Service on the same day, except as otherwise specified in this Policy Directive concerning security issues. In any event, excluding weekends and holidays or emergency situations, incoming and outgoing letters shall be held for no more than forty-eight (48) hours and packages shall be held no more than seventy-two (72) hours.
 - B. Inmates will place outgoing general mail in the mailboxes sealed or unsealed, which decision will be made by the Warden/Administrator.
 1. The Division of Corrections may inspect and read such mail.
 2. The Warden/Administrator shall designate those persons approved to read outgoing mail.
 3. Any information found in outgoing mail which is considered a threat to safety and security issues of criminal activity shall be given to the Associate Warden of Security/Chief Correctional Officer no later than the next regular business day.
 4. Any information gathered of a private nature concerning an inmate or his/her family while in the process of reading and inspecting outgoing mail is of a private nature, and shall be handled discreetly.
 - C. Outgoing privileged and attorney/client mail cannot be delayed or read, unless there are reasonable grounds to believe that such mail poses a threat to the security, good order, or discipline of the facility; if it is necessary for the protection of the public; or if it is used to facilitate criminal activity. Division of Corrections' staff may inspect outgoing privileged and attorney client mail for contraband, in the presence of the sending inmate.

D. Inmates are required to utilize a return address, to include their name, OID Number, facility name and address.

III. Incoming privileged and attorney/client mail shall be processed as follows:

A. All envelopes of incoming privileged and/or attorney/client mail shall be inspected outside the presence of the intended inmate recipient before opening.

1. If the envelope appears to have been tampered with, contain contraband, or in any other way appears suspicious, the employee processing the mail will notify the Shift Commander or designee.
 - a. If the Shift Commander or designee agrees that the envelope appears to have been tampered with, contain contraband, or appears suspicious, the mail will be opened in front of the inmate; the inmate will be given a photocopy of the envelope, and the original envelope will be destroyed (if not stored as evidence).
 - b. If the contents of the envelope appear to have been tampered with, contain contraband, or in any other way appear suspicious, the inmate will be given a photocopy of the contents, and the original contents will be destroyed (if not stored as evidence).
2. If the envelope does not appear suspect, the mail will be opened in the presence of the inmate to inspect for contraband.
 - a. If the contents of the envelope appear to have been tampered with, contain contraband, or in any other way appear suspicious, the inmate will be given a photocopy of the contents, and the original contents will be destroyed (if not stored as evidence).
 - b. If the contents do not appear suspect, the inmate will be given the contents.

B. Incoming privileged and/or attorney/client mail may not be read by employees, unless:

1. The Warden/Administrator or designee makes a written recommendation, fully describing the reasons, facts and circumstances upon which the recommendation is based, to the Director of Security or designee, that there is reasonable cause to suspect the mail is counterfeit or contains contraband.
2. If such a determination is made:
 - a. The inmate and the sender shall be notified in writing that their mail will be read.
 - b. The inmate has the right to appeal the reading of his/her mail through the established grievance procedure.
 - c. The privileged or attorney/client mail shall be opened in the presence of the inmate, unless waived in writing.

- d. The Warden/Administrator or designee shall fully describe, in writing, the reasons, facts and circumstances upon which the determination is based. This documentation will be provided to the West Virginia Division of Corrections' Director of Security or designee, who shall review the determination.
- C. When giving incoming privileged and/or attorney client mail to inmates, the employee issuing the mail shall minimally document:
1. The inmate's name and OID number
 2. The sender's name and address
 3. The date the mail was received at the facility
 4. The date the mail was delivered to the inmate
 5. In the event an inmate is given photocopies of such mail, the employee shall also submit an incident report detailing the reason(s) for the photocopying.
- IV. Incoming general mail shall be processed as follows:
- A. It shall be inspected and opened outside the presence of the inmate for reasons such as, but not limited to:
1. Inspect for contraband.
 2. To collect enclosed money orders, checks or monies.
 3. To be read by those persons designated by the Warden/Administrator.
 - a. Any information found in incoming mail that is considered a threat to safety and security or raises issues of criminal activity shall be given to the Associate Warden of Security/Chief Correctional Officer no later than the next regular business day.
 - b. Any information gathered of a private nature concerning an inmate or his/her family while in the process of reading and inspecting incoming mail is of a private nature, and must be handled discreetly.
- B. If, upon inspection prior to opening, the envelope appears to have been tampered with or contain contraband:
1. The employee processing the mail shall submit the suspect item to the facility's investigator.
 2. The employee shall submit an incident report describing the actions taken.

3. The employee shall notify the intended inmate recipient, in writing, that the mail was returned or destroyed, along with a photocopy of the envelope.
- C. If the envelope does not appear to have been tampered with:
1. The employee processing the mail will remove the contents and make one (1) black and white photocopy of the envelope and its contents.
 2. The photocopies will be sent to the inmate via normal facility mail procedures.
 3. The envelope and its contents will be held for fifteen (15) business days and then destroyed (if not stored as evidence); this section will be held in abeyance until ninety (90) days from the effective date of this Policy. During that ninety (90) day period, inmates will be allowed to choose whether to destroy the envelope and its contents, or have it returned to the sender at the inmate's expense.
- D. If the mail includes government-issued checks orders on behalf of the inmate:
1. If the Warden/Administrator or designee approves it, the check shall be promptly recorded and credited to the inmate's account, with a signed receipt provided to the inmate.
 2. The Warden/Administrator or designee shall maintain accurate records concerning certified checks and money orders so received; these records shall minimally include the date, sender, amount received and the receipt number provided to the inmate.
- E. Incoming checks from non-governmental entities will not be accepted and will be returned to the sender.
- F. The sending of cash to an inmate is not permitted.
1. If cash is received, it will be promptly returned to the sender, at the inmate's expense.
 2. The sender (if known) and the inmate will be informed, in writing, that the practice is not permitted.
 3. If the sender is unknown, the cash will be treated as contraband cash, and disposed of as per policy.
- V. Staff members who open privileged or attorney/client mail, or who read general mail in violation of this directive may face discipline actions.

- VI. If an inmate files a complaint/grievance concerning mail privileges and procedures, said complaint/grievance shall be completed within five (5) days of the alleged incident.
- VII. An indigent inmate will be provided a maximum of ten (10), 1-ounce or less, postage-free letters per month.
- A. This monthly allowance to indigent inmates is not transferable or cumulative from month to month.
 - B. This limit cannot be exceeded by borrowing from another inmate.
 - C. The cost of posting letters weighing more than 1-ounce will be deducted from the total monthly allowance available to the indigent inmate.
 - D. An indigent inmate will be provided postage over the amount established for the purpose of mailing privileged or attorney/client mail within reasonable limitations, as determined by the Warden/Administrator.
 - E. Writing materials to include pens, pencils, paper and envelopes will be provided to indigent inmates in reasonable quantities, as determined by the Warden/Administrator.
 - F. Wardens/Administrators are not permitted to restrict inmates' access to postage and/or writing materials for outgoing privileged or legal mail.
- VIII. Incoming certified/registered inmate mail will be processed as all other mail and delivered to the addressee upon securing a signed receipt for same.
- A. A log of incoming certified mail will be kept by the Facility Post Office.
 - B. The log shall document the inmate's name OID Number, the date mail was given to inmate and the signature of the inmate.
- IX. Outgoing certified/registered mail shall be permitted if the inmate sender has funds to pay for such service. In all respects, this mail shall be handled as regular, first class, outgoing mail.
- X. Wardens/Administrators may authorize inmates to receive packages of allowable items in the mail, pursuant to protocols which shall be established by the Director of Inmate Services in consultation with the Director of Security.
- XI. Non-published material, which if contained within a publication would otherwise not be permitted under Policy, shall not be permitted within any facility. No inmate shall be permitted to receive any form of private pornography. Contraband

confiscated hereunder shall be handled consistent with procedures used to reject any other form of contraband which is not a publication.

XII. All mail collection points shall post a sign reading as follows:

“ALL INCOMING AND OUTGOING MAIL, EXCEPT PRIVILEGED AND ATTORNEY/CLIENT MAIL, MAY BE MONITORED, READ, AND IF NECESSARY, COPIED. ALL PRIVILEGED AND ATTORNEY CLIENT MAIL WILL BE SEARCHED AND INSPECTED FOR CONTRABAND, AS DEFINED BY STATE LAW, DIVISIONAL POLICY AND FACILITY PROCEDURES.”

XIII. First-Class letters and packages shall be forwarded.

- A. When an inmate is transferred to another facility or released from custody, his/her first-class letters and packages shall be forwarded to his/her new address if one is available.
- B. If an inmate moves from his/her established forwarding address or failed to establish a forwarding address at the time of his/her release, all first-class letters or packages will be returned to sender.

ATTACHMENTS:

None

APPROVED SIGNATURE:


Lolita Butcher, Acting Commissioner

4-14-17
Date

INSTITUTION NAME
WV DIVISION OF CORRECTIONS' LETTERHEAD
MEMORANDUM

TO:
FROM:
DATE:
RE: Inmate Correspondence

The following West Virginia Division of Corrections' inmate, _____
_____, DOC # _____, is currently incarcerated in the
_____.

This inmate requests permission to correspond with inmate _____
_____, Number _____, currently incarcerated in
your institution/facility/center.

Please complete this form and return it to me.

_____ I approve this inmate correspondence.

_____ I disapprove this inmate correspondence

Warden/Administrator

INSTITUTION NAME
WV DIVISION OF CORRECTIONS' LETTERHEAD

DATE

Mr. or Mrs. _____,

Due to our policies on the reception of personal checks/cash/certified checks/money orders in our institutions/facilities/centers, the enclosed personal check/cash/certified check/money order is considered contraband and is being returned to you because:

1. It is a certified check or money order for greater than one hundred dollars (\$100.00) and, therefore, not permitted.
2. It is a personal check or cash and, therefore, not permitted.

Inmate _____, DOC # _____, has been notified of this and has the right to appeal this decision to the Warden/Administrator within five (5) business days.

SIGNATURE BLOCK FOR
POST OFFICE STAFF

INSTITUTION NAME
WV DIVISION OF CORRECTIONS' LETTERHEAD

DATE

Mr. or Mrs. _____,

Due to our policies on items allowed in our institutions/facilities/centers, the enclosed item(s) are considered contraband and are being returned to you because:

Non-published material which if contained within a publication would otherwise not be permitted under current Division of Corrections' policy shall not be permitted within any institution/facility/center. No inmate shall be permitted to receive any form of private pornography which is considered any photograph, photocopy, drawing, or other visual depiction of a person totally nude or with exposed breasts, genitalia, or buttocks and which has not been published for widespread or commercial viewing. This category generally consists of, but is not limited to, nude or semi-nude photographs of an inmate's friend, spouse, family member, or other person with whom the inmate is or was acquainted.

Inmate _____, DOC # _____, has been notified of this and has the right to appeal this decision to the Warden/Administrator within five (5) business days.

**SIGNATURE BLOCK FOR
POST OFFICE STAFF**