



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
PRISON
OFFENDER/SPANISH MANUALS

REVISION DATE
11/16/15

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POLICY

TITLE
LEGAL ACCESS FOR OFFENDERS

REVIEW/REVISION HISTORY:

Effective: 1/5/00	Revised: 7/17/09
Revised: 5/24/04	Revised: 6/20/11
Revised: 2/14/06 AB 06-003	Revised: 1/21/13
Revised: 6/7/07 AB 07-016	Revised: 11/16/15
Revised: 5/20/08	

SUMMARY OF REVISION/REVIEW:

Policy statement I.B.1. and Directive VIII.A. & A.2. - Added clarifying language
 I.A. - Added clarifying language throughout on offender access to materials to prepare/file a legal pleading
 V.D. - Added that the Superintendent may designate an alternate area, specifying hours of use, for an offender to possess another offender's legal documents/papers
 V.E. - Adjusted language for clarification
 VII.A. - Adjusted that recordings of court proceedings and facility/ISRB hearings and recordings submitted as evidence will be retained by the Superintendent/designee
 VII.B. - Added that recordings will be retained for 3 months after the final level of administrative or court appeal
 VII.C. - Added that offenders must request to be placed on callout to view/listen to a recording
 Removed IX.A.2.c. & 3.a.3) on loaning of reference materials
 IX.A.4.b.1) - Adjusted that priority access will be allowed for up to 5 working days when a deadline cannot be confirmed, to allow the offender to locate additional documentation

APPROVED:

Signature on file

DAN PACHOLKE, Secretary
 Department of Corrections

10/20/15

 Date Signed

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REFERENCES:

DOC 100.100 is hereby incorporated into this policy; [RCW 10.73.090](#); [ACA 4-4274](#); [ACA 4-4275](#); [ACA 4-4276](#); [DOC 200.000 Trust Accounts for Offenders](#); [DOC 320.255 Restrictive Housing](#); [DOC 440.000 Personal Property for Offenders](#); [DOC 450.100 Mail for Prison Offenders](#); [DOC 450.200 Telephone Use by Offenders](#); 28 U.S.C. 2244(d)(1)

POLICY:

- I. [4-4274] All offenders, regardless of language barriers or financial/educational status, will be provided with meaningful access to the courts. [4-4276] Consistent with legitimate penological objectives, all offenders will be given the opportunity to:
 - A. Communicate with the courts and legal counsel.
 - B. Research and prepare legal matters in the following order of priority:
 1. Actions related to their sentence and/or confinement, including county jail time.
 2. Actions related to their civil rights.
- II. Indigent offenders will be given the access and opportunity to obtain the legal services provided to other offenders as indicated in this policy.

DIRECTIVE:

- I. General Requirements
 - A. [4-4276] Offenders will be provided access to materials necessary for preparing and filing a legal pleading, as follows:
 1. Offenders may purchase paper, writing tools, and legal and manila envelopes through the commissary.
 2. The Law Library will make writing tools available for loan and may provide additional paper for offenders who run out before finishing their work.
 3. Carbon paper may be made available for offender use only while in the Law Library.
 4. Indigent offenders will be provided 9" x 12" manila envelopes upon request to send authorized legal mail as defined in DOC 450.100 Mail for Prison Offenders.

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- B. Offenders will be allowed to purchase and retain personal legal reference books and materials from authorized sources, subject to the property limitations set in DOC 440.000 Personal Property for Offenders.
- C. Offenders will be provided access to free Notary services. [4-4276]
- D. Offenders will have the opportunity to communicate with family members, friends, and support groups by means of visitation, mail, and/or telephone to obtain assistance in pursuing legal matters.

II. Legal Mail

- A. Incoming and outgoing legal mail will be processed per DOC 450.100 Mail for Prison Offenders.

III. Visiting

- A. Confidential attorney visitation to discuss legal matters will be allowed. [4-4275]
- B. The Superintendent may set reasonable limits on the time, place, and manner of visits with legal counsel or verified representatives employed by legal counsel.

IV. Telephones

- A. Offenders will be provided reasonable opportunity to access telephones for confidential legal matters per DOC 450.200 Telephone Use by Offenders.

V. Offender Assistance in Legal Matters

- A. One offender may confer with another offender in researching and preparing legal pleadings. No offender may represent, attend, hear, or participate in another offender's legal matter before a legal tribunal unless called as a witness.
- B. An offender cannot, under any circumstances, receive any form of favor or payment for the time, efforts, equipment, or materials used in assisting another offender. No fee or consideration may be charged by an offender who assists another offender with any legal matter. Any offender found to be in violation of this requirement will be subject to disciplinary action.
- C. Offenders may assist each other in preparing legal documents in the Law Library when the Law Library access schedules allow, unless there is a legitimate penological interest precluding the contact.
 - 1. When possible, sufficient time in the Law Library should be provided to both offenders.

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2. The Superintendent may limit the time, place, and manner in which offenders confer outside the Law Library based on security levels, housing assignment, security concerns, and general order of the facility.
- D. An offender assisting another offender in legal matters may only possess the other offender's legal documents/papers in the Law Library, or other area designated by the Superintendent, during regular Law Library hours or as specified by the Superintendent when both offenders are present. All personal legal documents/papers must be retained by the party(ies) directly involved in the legal matter.
 - E. Offenders who are unable to read or write English or are otherwise disabled will be referred by the Law Librarian first to contracted attorneys, then trained law clerks. Other offenders may also provide legal assistance.
 - F. Offenders who wish to serve legal documents on a Department employee or contract staff may not do so through other offenders. An offender may:
 1. Ask the court for assistance,
 2. Ask or retain a person outside the facility (e.g., county Sheriff, commercial process server) to serve the documents, or
 3. Ask for assistance from the facility's legal service contractor(s), where available.
 - a. Legal service contractors can assist only if:
 - 1) The documents being served are a summons and complaint filed in a state superior court, challenging the offender's conditions of confinement, and
 - 2) The employee or contract staff works in the same facility where the offender is currently housed.
 - b. Legal service contractors will not assist with federal complaints, personal restraint petitions, Public Records Act suits, and cases against the Department or another state agency.
- VI. Offender Possession of Legal Materials
- A. Offenders will be allowed to possess their personal legal documents/papers, with the exception of offenders at the Reception Diagnostic Centers (RDCs), who will have access to their personal legal document/papers through the Law Librarian only.

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- B. The Superintendent may limit the quantity of legal materials an offender may accumulate in order to maintain adequate sanitary conditions, meet storage space limitations, reduce fire hazards, and provide reasonable ease for conducting security inspections. Limitations may also be placed on the possession time and amount of personal legal documents/papers allowed in a specific security level and/or housing unit.
- C. The Superintendent may authorize additional storage if personal legal documents/papers needed to meet a court imposed deadline exceed the storage limit specified in DOC 440.000 Personal Property for Offenders.
- D. Legal materials, court transcripts, copies of prior cases, and other public documents that have a very common, general availability and use will be handled the same as all other offender property, books, and papers.
- E. Personal legal documents/papers will not be read by employees during inspections and security searches if the documents/papers are stored in an authorized container (e.g., envelope, folder) separate from other legal materials.
 - 1. The container must be clearly marked as personal legal documents/papers and stored in an area designated by the facility.
 - 2. Each document within the container must be clearly labeled with the offender's name, DOC number, and the document title in the top inch of the document.
 - 3. Personal legal documents/papers that are not properly stored and labeled will be handled the same as other offender property.
- F. Offenders housed in short term segregation should not expect to be provided with their personal legal documents/papers or legal materials. If an offender has a verifiable court imposed or statutorily imposed deadline within 45 days of entering segregation, s/he will be allowed to request specific personal legal documents/papers in order to continue or pursue the legal matter. Personal legal documents/papers and resource materials may be limited to those necessary for preparing the draft pleading.
- G. Offenders housed in long term segregation or an Intensive Management Unit (IMU) may request to be provided specific personal legal documents/papers necessary to prepare legal pleadings. Such allowances must conform to limitations set in DOC 320.255 Restrictive Housing and the Long Term Segregation/IMU requirements in the Law Library section of this policy.

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H. The Superintendent may limit access to legal pleadings and personal legal materials, depending upon the behavior of the offender, security, and order issues of the specific housing unit.

VII. Legal Media Recordings

A. The Superintendent/designee will retain and store audio/video recordings, which include recordings of:

1. Court proceedings and recordings that are submitted as evidence in an active case.
2. Prisons, Community Corrections, and Indeterminate Sentence Review Board (ISRB) hearings.

B. Recordings will be retained by the Superintendent/designee and will be documented on DOC 19-080 Receipt of Offender Legal Media Materials. Recordings will be retained for 3 months after the final level of administrative or court appeal.

C. The offender must make a request to the Superintendent/designee to be placed on callout to view/listen to his/her recording(s).

VIII. Photocopying/Printing

A. Offenders will be given the opportunity to obtain photocopies of their own legal pleadings being submitted to the court, opposing party, and/or counsel in cases regarding current conviction, conditions of confinement (i.e., including county jail confinement), and/or challenges to the offender's sentence. Offenders may incur a debt for the photocopies if they do not have sufficient funds to pay the required fee at the time of the request. Photocopying fees will be recovered per DOC 200.000 Trust Accounts for Offenders.

1. Offenders will submit requests to the Superintendent/designee(s), allowing sufficient time to fill the request in advance of any known deadlines.
2. Photocopying will be limited to the number of copies necessary to meet court rules, one copy each for the opposing party(ies), one copy for the offender's counsel of record, and one copy for the offender's records.
3. Photocopies should be made in the offender's presence, except for offenders in segregation or IMU if it compromises security. If copying cannot be completed at the time of the request, the offender may either:

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- a. Agree to return at a reasonable, specific time for the copying to be completed, or
 - b. Waive having the copies made in his/her presence and return to pick up the copies at an agreed upon time.
4. The photocopies will be treated as legal mail per DOC 450.100 Mail for Prison Offenders and will be mailed out immediately.
- B. Offenders will also be given photocopying access for the following if they have sufficient funds to pay the required fee at the time of the request:
1. Information that would normally be available for review or loan at the facility Law Library,
 2. Drafts or working legal documents, and
 3. Legal documents/papers or legal materials which are not legal pleadings, such as:
 - a. Divorce decrees/child custody petitions,
 - b. Legal name change documents,
 - c. Tort claims, or
 - d. Other documents the offender can demonstrate would be attachments to a legal matter/proceeding.
- C. The offender must complete DOC 06-075 Offender Request to Transfer Funds to request withdrawals from his/her account to pay for photocopy services. The fee for any photocopies is 20 cents per page.
- D. The Superintendent may restrict an offender's access to photocopies if there is documentation that the offender is barred from litigation in a particular court, or is making excessive requests, such as requesting:
1. More copies of briefs, appeals, and writs of habeas corpus than the court requires.
 2. More than one additional copy other than the original for personal mailing.
- IX. Law Library
- A. [4-4276] All major facilities will have at least one Law Library. Offenders will have access to a Law Library and/or the resources of a Law Library, assistance from individuals trained in the law, and/or access to legal service contractors. The Law Library will contain relevant and up-to-date constitutional, statutory, and case materials, applicable state and federal court rules, and practice treatises.

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1. Staffing
 - a. Each Law Library will be maintained by a Law Librarian appointed per Civil Service Rules.
 - b. Offender clerks will be hired and trained to work with the Law Librarian to provide effective Law Library assistance to offenders.
 - c. Employees may open the Law Library when the Law Librarian is unavailable, except as prohibited by contract.

2. General Population Access
 - a. Each facility Law Library will provide reasonable access to eligible general population offenders. Facilities will make reasonable adjustments to allow offenders to use the Law Library during weekend and evening hours, when necessary.
 - b. An offender housed at a minimum facility who has legal needs regarding habeas corpus, civil rights actions, and/or challenges to his/her conditions of confinement may request a temporary transfer to a major facility designated by the Department to use the Law Library. The offender will be allowed full access to the Law Library as scheduling allows or per priority access procedures.
 - 1) The offender will not be required to program during the initial period of temporary transfer.
 - 2) Extension of initial transfer timelines and changes in programming expectations will be made at the discretion of the receiving Superintendent.

3. Long Term Segregation/IMU
 - a. Access to Law Library employees/contract staff will be available to offenders in special housing upon written request to:
 - 1) Provide timely guidance relating to the resources available from the Law Library.
 - 2) Answer questions and/or make necessary referrals to other available legal services.

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4. [4-4276] Priority Access
 - a. The Superintendent/designee may grant priority access or accommodation to an offender who demonstrates an exceptional need regarding actions related to his/her sentence, confinement, and/or civil rights, such as:
 - 1) A documented or identifiable court deadline within 45 days of the request.
 - 2) Any demonstrated prejudice to an offender's case if access is not obtained.
 - 3) An identifiable deadline imposed by court rule or statute including, but not limited to, deadlines for appeals or deadlines imposed per RCW 10.73.090 or 28 U.S.C. 2244(d)(1).
 - b. To request priority access, offenders will complete and submit DOC 02-247 Law Library Priority Access Request to the designated employee/contract staff. Copies of court documents can be included as attachments at no cost to the offender.
 - 1) If the employee/contract staff cannot determine whether the offender has correctly identified a deadline, priority access may be granted for up to 5 working days while the offender locates additional documentation for consideration.
 - 2) If no deadline is established, the form will be returned to the offender with reasons noted.
- B. Each Law Library will maintain a Brief Bank in which any offender can file a copy of a legal pleading which might be of help to another offender(s), provided the pleading does not threaten legitimate penological objectives or security needs.
 1. Offenders submitting a brief to the Brief Bank may elect to redact the names of parties or any other sensitive/confidential information.
 2. Law Librarians will index the briefs accordingly (e.g., habeas corpus petitions, civil rights actions, sanctions memos, extension memos). The index will be available for offender review at the Law Library and will also be made available to segregated offenders.

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C. The Superintendent may establish reasonable restrictions consistent with legitimate penological goals and security needs regarding the possession, time, and quantity of reference materials allowed in the Law Library. This applies to offenders housed in general population and long term segregation/IMU.

X. Transfers

A. In cases concerning an offender's proposed or planned transfer, consideration should be given to the effect the transfer would have on the offender's pending legal actions.

B. If the offender informs an employee or contract staff of any court imposed deadline or can demonstrate prejudice to his/her case, the employee/contract staff should provide priority handling of that offender's personal legal documents/papers during the transfer.

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Exhibit, Indigent, Legal Materials, Legal Matter, Legal Pleadings, Personal Legal Documents/Papers. Other words/terms appearing in this policy may also be defined in the glossary.

ATTACHMENTS:

None

DOC FORMS:

- [DOC 02-247 Law Library Priority Access Request](#)
- [DOC 06-075 Offender Request to Transfer Funds](#)
- [DOC 19-080 Receipt of Offender Legal Media Materials](#)