

 <p style="text-align: center;"><b>KENTUCKY CORRECTIONS</b> Policies and Procedures</p>	Policy Number	Total Pages
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Authority/References KRS 196.035, 197.020 ACA 5-ACI-7D-06, 5-7D-4487 through 5-7D-4496, 2-CO-5D-01 <i>Espinoza v. Wilson</i> , 814 F.2d 1093 (6th Cir. 1987); <i>Meadows v. Hopkins</i> , 713 F.2d 206 (6th Cir. 1983); <i>Larado v. Keshane</i> , 992 F.2d 601 (6th Cir. 1993); <i>Turner v. Safley</i> , 107 S.Ct. 2254 (1987) <i>Thornburgh v. Abbott</i> , 490 U.S. 401 (1989); <i>Montcalm Publishing v. Beck</i> , 80 F.3d 105 (4th Cir. 1996); <i>Martin v. Kelley</i> , 803 F.2d 236 (6th Cir. 1986); <i>Rogers v. Martin</i> , 84 Fed.Appx. 577, 579 (6th Cir. 2003)	<b>INMATE CORRESPONDENCE</b>	

## I. DEFINITIONS

“ACN” means attorney control number.

“Contraband” is defined in CPP 9.6.

“Copying” means any type of duplication or reproduction, including photocopying, scanning, photographing, video recording, or any other means by which an identical or similar version of an original is created.

“Dangerous contraband” is defined in CPP 9.6.

“Day”, for purposes of this policy only, means a calendar day which includes any day of the week and weekends.

“General correspondence” means all incoming or outgoing mail except privileged mail, including magazines, periodicals, books, and other similar items.

“Indigent” is defined in CPP 15.7.

“Inmate email” means electronic correspondence that is sent through an approved vendor.

“Legal mail portal” means a system in which licensed attorneys register and receive an attorney control number and a secondary code to send privileged mail to Department of

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Corrections inmates.

“Nudity”, for purposes of this policy only, means a pictorial depiction where male or female genitalia, buttocks, anus, or the nipples or areola of female breasts are exposed.

“Privileged mail”:

A. Means correspondence received from or sent to:

1. A clearly identified attorney, the Department of Public Advocacy, or a law school legal clinic that constitutes communication between an attorney and client for the purposes of rendering legal advice;
2. A rape crisis center; or
3. A court, a Department of Corrections official, the Governor, a local chief executive officer, a Department of Corrections grievance administrator, or a Parole Board member.

B. Shall not include information, forms, and other material not specific to a particular inmate.

“Sexually explicit”, for purposes of this policy only, means nudity or pictorial depictions of actual or simulated sexual acts including sexual intercourse, oral sex, or masturbation.

## II. POLICY and PROCEDURES

A. Inmates shall be advised upon arrival at an institution of the mail policies for that institution.

B. Outgoing Mail

1. An inmate may send mail to any addressee, except as provided in this policy.
2. All outgoing inmate mail shall be processed as follows:
  - a. Privileged mail for which postage is not affixed shall be handled according to requirements for outgoing privileged mail in II. I. Outgoing Privileged Mail below; or
  - b. Mail, excluding the mail indicated in subsection a. above, shall be sealed, subject to being opened by prison staff to determine that contraband is not being sent nor any violation of prison rules has occurred or is planned.
3. If sealed outgoing mail is opened by prison staff, there shall appear on the envelope or container, language that states this mail has been opened and inspected or read by staff at the (institution name).
4. Letters placed into the process for mailing shall be done at the inmate's request and the inmate shall be responsible for the contents of the mail he

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sends.

5. Outgoing mail that contains material that constitutes a violation of prison rules or appears to be a violation of federal or state law shall be rejected for mailing and may result in disciplinary charges or referrals to law enforcement. However, mail shall not be rejected for containing criticism of the institution, its staff, or government officials.
6. The inmate shall affix sufficient postage stamps to the envelope to cover the costs of mailing the item.
7. An inmate who is indigent shall receive, upon request, postage and stationery sufficient to send at least two letters, weighing one ounce or less, per week.
8. If an inmate is without funds to pay the postage for privileged mail, he shall sign a written money authorization for payment from his inmate account that allows payment when funds are received.
9. Prior to being mailed, mail that does not have the proper return address shall be returned to the sender if the sender can be identified. If the sender cannot be identified, the mail shall be held for thirty (30) days to be claimed by the sender. If not claimed, it may be destroyed, donated to charity, or used for institutional purposes.
10. The institution shall stamp the mail envelope or container to identify the institution.
11. Outgoing inmate email may only be pre-purchased by a non-incarcerated person.
12. An inmate may appeal the decision to reject the item through the process provided in II. F. below.

#### C. Incoming Mail

1. An inmate may receive mail from any sender, except as provided in this policy.
2. A sender may include within mail sent to an inmate, a standard white envelope, 9.5 by 4 inches or smaller. The envelope may have metered postage printed on it but shall not have any stamp. An inmate shall not receive more than three (3) envelopes inside one mailing.
3. Correspondence received shall, if possible, be delivered to the inmate within forty-eight (48) hours of receipt during normal workdays, excluding

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weekends and holidays.

4. Publications

- a. An inmate may receive publications from a mail order distributor of published materials. Publications received shall be prepaid by the inmate through institutional procedures and mailed prepaid by the distributor. Free publications that do not violate this policy from a legitimate publisher may be received if requested by the inmate. A list shall not be maintained of specific publications that shall be rejected.
- b. Inmates may order catalogs and the like by paying the distributor to mail it by first or second class postage.
- c. Catalogs or magazines to which the inmate subscribes shall not be considered prohibited mail under this subsection unless it includes prohibited items listed in this policy.

5. All incoming mail, except privileged mail, shall be opened and inspected or read to determine if contraband is enclosed or any violation of prison rules has occurred.

- a. If an item is removed from incoming mail, staff shall make a written record of the item removed.
- b. If contraband is found that is illegal, it shall be seized, and the inmate may be prosecuted as provided in KRS 520.050 or 520.060 or other applicable statute.
- c. If contraband is found that is not illegal, notice shall be given to the inmate and the sender. The notice shall indicate the nature of the contraband and allow the inmate to advise how the item is to be disposed.
- d. An inmate may appeal the decision to not deliver the item through the process provided below in II. F. below.
- e. Inmate email shall be processed as regular incoming mail. Inmate email shall not be treated as privileged mail and shall not be printed unless required by law.

6. Rejected mail shall be handled by one of the following methods:

- a. Publications shall be rejected on a case-by-case basis. Publications shall not be rejected solely for being mailed into the institution in a non-white envelope or sent in packages with mailing labels.
  - (1) If publications are mailed in a non-white envelope, the contents of the envelope shall be reviewed and delivered to the inmate if it does not violate this policy. The inmate shall not be allowed to possess the envelope itself.
  - (2) If publications are mailed in a package with mailing labels,

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the mailing label shall be removed by the institution before delivery to the inmate.

- (3) If any publication is rejected by the institution, the Warden or designee shall send the notice of rejection with specific reason(s) to the publisher within three (3) business days.
- b. If mail is rejected, it shall be held by the appropriate staff until the appeal is resolved. If no appeal is made or the appeal is denied, the inmate shall have seven (7) days to indicate in writing a disposition of the item. If no disposition is indicated, the item may be destroyed, donated to charity, or used for institutional purposes.
- c. If the rejected mail is to be sent out, the inmate shall secure the necessary costs. If the inmate fails to secure the costs within the seven (7) days, the item may be disposed of as provided herein.
- d. Notwithstanding the provisions above, any matter that is received of an unsanitary or non-hygienic nature shall be destroyed upon receipt.
- e. Notwithstanding all other provisions of this policy, if a letter or correspondence is received that does not comply with a proper address that includes the name and address of the sender, has extraneous stickers or decals, or otherwise demonstrates reasons for its rejection, the institution may immediately return the item to the post office for return to the sender with notice and an explanation to the inmate.

#### D. Prohibited Sexually Explicit Materials

1. Sexually explicit materials shall be prohibited, including pictorial depictions in books, pamphlets, magazines, periodicals, and any other graphic images, or any other publication or any personal pictures, drawing, or photocopies of any of these items.
2. The Warden shall designate a staff member or members to review incoming publications to determine if they violate this policy and if so, shall be rejected.
  - a. A list shall not be maintained of specific publications that shall be rejected.
  - b. Material rejected under this section shall be held by the appropriate staff and notice of the rejection with the reason therefor shall be provided to the inmate and to the sender. The inmate shall have the same appeal process as set forth in II. F. below.

#### E. Other Prohibited Mail

Outgoing or incoming mail may be rejected, in addition to other provisions of this policy, for any of the following reasons:

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1. The mail contains threats of physical harm against any person or threats of criminal activity;
2. The mail contains plans to smuggle contraband into or out of the institution;
3. The mail contains information regarding formulation of escape plans, plans to commit a crime, or plans to violate a prison rule;
4. The mail contains solicitation of gifts, goods, money, or things of value from individuals or entities other than family or established close friends;
5. The mail contains a code or gang insignia;
6. The mail contains obscene language or drawings;
7. The mail contains any information that, if communicated, would create a threat to the security of the institution;
8. The mail constitutes free advertising material, fliers, and other bulk rate mail except that received from a recognized religious organization sent in care of the institutional chaplain. This mail may be discarded upon receipt.
9. The mail is to the victim of the inmate's crime, or a person of a close relationship to the victim.
10. The mail contains address labels, stickers, homemade cards, musical cards, non-white envelopes or paper, paintings, tracing paper, pages from coloring books, drawings in colored ink, marker, crayon, glitter, raised decorations, paint or the use of white-out, glue, or any other liquid form.
11. The mail contains stamps, blank envelopes or stationery, money orders, cash or checks, except as allowed in the Incoming Mail section of this policy.
12. An inmate may appeal the decision to reject the item through the process provided in II. F. below.

F. Inmate Appeal for Rejection or Return of Mail

1. An inmate may appeal a decision to not deliver, return, or reject for mailing an item in writing to the Warden.
2. An inmate shall appeal within five (5) days of receipt of the notice of rejection or return.

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3. The Warden or designee shall respond in writing within fifteen (15) days of receipt of the inmate's appeal.
4. If the appeal is denied, a further appeal shall not be allowed.
5. A publisher may appeal a decision to not deliver an item to an inmate to the Commissioner within fifteen (15) days of receipt of the return.
6. The Commissioner or designee shall respond in writing within fifteen (15) days of receipt of the publisher's appeal.

G. Incoming Privileged Mail

1. All incoming privileged mail shall be opened and inspected for contraband in front of the inmate recipient of the privileged mail. If contraband is found, the contraband shall be handled in the process stated in II. C. 5.
2. All incoming privileged mail other than from a licensed attorney shall be copied as stated in II. G. 8. below.
3. Incoming privileged mail from a licensed attorney
  - a. An attorney sending privileged mail to an inmate shall use the legal mail portal on the DOC website at <https://corrections.ky.gov/facilities/ai/pages/legalmail.aspx>. To use the legal mail portal, the attorney shall create an account and agree to the rules of the legal mail portal.
  - b. As a condition to use the legal mail portal, all attorneys and any staff using the attorney's account, shall not send contraband. Attorneys shall ensure that official documents sent using the ACN system come from a trusted official source. Attorneys shall be responsible for anything sent using the attorney's account. General guidance and rules may be reviewed on the DOC website on the legal mail portal page. The notice on the website may be reviewed regularly for contraband and mail problem updates.
  - c. Privileged mail from a licensed attorney shall include both an attorney control number and a secondary code. An attorney sending privileged mail to an inmate shall register and obtain an ACN from the Department of Corrections through the legal mail portal on the DOC website.
  - d. For each piece of privileged mail sent, the attorney shall obtain a confidential secondary code from the Department of Corrections through the legal mail portal. Secondary codes are valid for thirty

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(30) days. Any secondary code not used within thirty (30) days will expire and the attorney shall request a new secondary code.

4. Incoming privileged mail from a licensed attorney review

a. Incoming privileged mail shall be reviewed to determine if it includes both a valid ACN and a valid secondary code from the legal mail portal.

(1) If the incoming privileged mail includes a valid ACN and secondary code, the privileged mail shall be opened in the presence of the inmate and inspected only to determine if it is contraband or if it contains contraband. If the mail is not contraband and does not contain contraband, it shall be given to the inmate to whom it is addressed.

(2) If mail includes a valid ACN but does not have the secondary code or has an incorrect or invalid secondary code, reasonable efforts shall be made to contact the sending attorney to verify that the privileged mail was sent by a registered attorney.

(a) If reasonable efforts to verify the privileged mail are successful, the mail shall be opened in the presence of the inmate and inspected only to determine if it is contraband or if it contains contraband. If the mail is not contraband and does not contain contraband, it shall be given to the inmate to whom it is addressed.

(b) If reasonable efforts to verify the privileged mail are not successful, the inmate recipient shall be contacted to see if the inmate will agree to copy the mail using the copying process in section II. G. 8. below. If the inmate does not agree, the mail shall be rejected and returned to the sender.

(3) If privileged mail from an attorney is not marked with an ACN, the inmate recipient shall be contacted to see if the inmate will agree to copy the mail using the copying process in section II. G. 8. below. If the inmate does not agree, the mail shall be rejected and returned to the sender.

(4) If the ACN is for an attorney who is suspended or banned from the legal mail portal, the inmate recipient shall be contacted to see if the inmate will agree to copy the mail using the copying process in section II. G. 8. below. If the inmate does not agree, the mail shall be rejected and returned to the sender.

b. Before privileged mail is rejected and returned to the sender, the mailroom supervisor shall review the rejected mail to verify the rejection decision. The rejected mail shall be marked with the reason for rejection before returning to the sender.



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5. Institutional staff shall not inquire of an inmate how privileged mail relates to the inmate’s case or withhold privileged mail that complies with the ACN system for any reason unrelated to a determination that it contains contraband or an investigation into whether the mail contains contraband.
6. Incoming mail from an attorney, the Department of Public Advocacy, or a law school legal clinic that is not privileged shall be marked by the sender as “Not Privileged” and shall be treated as regular mail.
7. Incoming mail from an attorney or the Department of Public Advocacy that does not have a valid ACN and is not marked as “Not Privileged” shall be rejected and returned to the sender
8. Incoming privileged mail that is not provided to the inmate following G. 4. a. (1) and is not rejected and returned to the sender, shall be copied in the presence of the inmate, with the inmate able to view the person making the copies and the copying process.
  - a. The inmate shall be allowed to review all copied pages to ensure that all copied pages are substantially similar to the original, including readability. The inmate shall have adequate time to review the copies for quality and accuracy. If the inmate objects to the quality of a particular copied page, an additional copy shall be made.
  - b. Copies shall be made on a machine that does not retain copies of copied material.
  - c. Each institution shall designate a single area for copying privileged mail received by general population inmates. This area shall permit the inmate, regardless of physical condition, to observe the copying process free of visual obstruction. If an institution does not have an area available within the mail room that meets these requirements, or special management inmates are unable to travel to the mail room copying area, the copying process shall be completed using a portable copier, shredder, or rolling cart to take to an inmate’s cell so the inmate may observe the opening, copying, and shredding of privileged mail.
  - d. Once copies are made using this process, and the inmate confirms the receipt of a complete copy of the privileged mail, the originals shall be destroyed immediately.
9. Review of incoming documents without a valid ACN and secondary code that cannot be copied.
  - a. If the document has a watermark, or other proof of status as an original document, or if the document cannot be accurately reproduced using the institution’s equipment, the inmate may request that

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the original document be retained in a secure location not accessible to other inmates or unauthorized staff. Material that falls under this section shall not be reviewed by staff other than to be inspected for contraband.

- b. After the documents have been determined not to contain contraband, the inmate to whom the privileged mail was addressed may view the material privately away from other inmates and staff, subject only to visual supervision by staff by making a request to view to staff.
- c. Access to view this material shall be granted within forty-eight (48) hours of receipt of the request, not including weekends and holidays.
- d. Staff shall not make inquiries to the inmate regarding the content of the material or the inmate's reason for viewing it.

10. Incoming privileged mail shall be recorded as to the date and time of delivery to the inmate. The inmate may be required to sign for receiving privileged mail.

11. Bulk Mail

- a. An attorney who desires to send legal mail to a large volume of inmates at once shall send a request to doc.legalmailportal@ky.gov with the attorney's ACN and the date the bulk mail will be mailed.
- b. DOC staff shall provide the attorney with a unique secondary code that shall be included, with the ACN, on each piece of bulk legal mail.
- c. The unique secondary code will only be valid for ten (10) days from the date the attorney indicated the bulk legal mail would be mailed.

H. Violations of Legal Mail Portal Rules

1. Contraband violations

- a. If an attorney violates the no contraband rule, and the Department determines that the violation was intentional, the Department may immediately suspend or terminate the attorney's use of the legal mail portal, report them to the Kentucky Bar Association, and refer to a law enforcement agency.
- b. If an attorney violates the no contraband rule, and the Department determines that the violation was unintentional, a written warning shall be mailed to the address listed on the attorney's registration. A subsequent violation may result in the Department terminating the attorney's use of the legal mail portal.

2. An attorney's privilege to use the legal mail portal may be suspended or permanently banned for multiple instances of an incorrect ACN or

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secondary code or other violations of this policy. After two (2) written warnings, the attorney's use of the ACN system may be suspended for thirty (30) days. Subsequent violations may result in the Department terminating the attorney's use of the legal mail portal.

3. A violation of a legal mail portal rule shall be reported to the Office of the Commissioner. If an attorney is suspended or permanently banned from using the legal mail portal, written notice shall be mailed to the address listed on the attorney's registration.

#### I. Outgoing Privileged Mail

1. If an inmate has placed adequate postage on the item, outgoing privileged mail shall be sealed by the inmate and not inspected by staff so long as the inmate has clearly indicated an addressee that meets the definition of privileged mail.
2. If an inmate seeks to send mail after signing a written money authorization for payment from his inmate account that allows payment when funds are received, the outgoing privileged mail shall be presented to staff in an unsealed envelope in the manner determined by the institution. The institution shall not require the inmate to leave unsealed outgoing privileged mail for later review. In the presence of the inmate, staff shall scan or read only those sections of the mail that are necessary to determine if it meets the definition of privileged mail. Privileged mail shall not be removed from the inmate's presence before being sealed.
3. If it is determined that the outgoing mail does not comply with the privileged mail policy, the inmate shall receive an appropriate disciplinary charge and the mail shall be rejected.

#### J. Attorney Appeal for Rejected or Returned Privileged Mail or Violation of Legal Mail Portal Rules

1. An attorney may appeal a decision to suspend or ban the attorney's legal mail portal account or to reject or copy privileged mail in writing to the Commissioner or designee within fifteen (15) days.
2. The Commissioner or designee shall respond in writing within fifteen (15) days of receipt of the attorney's appeal.

#### K. Inmate Limited Access to Otherwise Prohibited Items

1. Inmates shall not possess contraband or dangerous contraband and nothing in this policy shall be construed to allow any inmate to possess contraband or dangerous contraband.

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2. Contraband or dangerous contraband contained within incoming privileged mail that was sent by a verified user of the ACN system, in compliance with the ACN system process, and that falls within the categories listed in subsection 4 below, may qualify for special treatment as set out in subsection 5 below.
3. Contraband or dangerous contraband contained within incoming privileged mail not sent by a verified use of the ACN system, or not in compliance with the ACN system process, shall be rejected and contraband may be returned to the sender, if appropriate.
4. Items that may qualify for alternate treatment as discussed in subsection 2 above shall include:
  - a. Architectural information describing the design and layout of a correctional facility or jail;
  - b. Information describing the operation or location of security apparatus used in correctional settings;
  - c. Employee schedules within the institution;
  - d. The design and construction of firearms;
  - e. The formula for the production of intoxicating substances;
  - f. Sexually explicit material necessary for criminal defense; and
  - g. Other information that would clearly pose a threat to the institution by describing information that may facilitate an assault, an escape, or the importation or creation of contraband.
5. Alternate Treatment
  - a. Items listed in subsection 4 above shall be allowed to remain at the institution if the sender:
    - (1) Is an attorney who is a verified user of the ACN system; and
    - (2) Has requested and received authorization from the warden of the institution where items are to be sent, prior to sending the items;
  - b. The request shall include a verification from the attorney of the necessity for the inmate's access to the item. The attorney shall not be required to provide a specific reason for the belief or provide confidential details about the inmate or the inmate's case.
  - c. The warden shall have fifteen (15) business days to respond to a request. The time frame for a response may be extended. Time necessary for any follow-up shall not be counted in the fifteen (15) day timeframe.
  - d. For the items to remain at the institution, the inmate shall follow the rules established by the institution. Any violation of those rules shall result in the return of the material in question to the attorney from

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whom the materials were sent, at the inmate's expense.

6. Returned Items

- a. Items returned to the sending attorney shall not be reviewed by staff.
- b. Correspondence accompanying the contraband that is sent in compliance with the ACN system may be delivered to the inmate, despite the materials being returned to the sending attorney.
- c. Materials to be returned to the sending attorney for failure to request and receive proper authorization shall not be reviewed by staff and shall be placed in a properly addressed envelope and mailed to the sending attorney, with the inmate or the law office bearing the mailing costs.

7. Nothing in this policy shall be construed as a waiver of disciplinary proceedings for violations of institution policy.

8. Nothing in this policy shall prohibit DOC from inspecting privileged mail for contraband at the time the mail is delivered to the inmate or investigating if there is probable cause to believe that an article of privileged mail contains contraband.

9. Materials allowed into the institution under K. 2. and 4. above shall be securely stored in a location not accessible to inmates or unauthorized staff.

- a. An inmate for whom the items are stored shall be permitted to view those items upon a proper request to staff. The following shall apply to any request:
  - (1) Staff shall not inquire as to the context of the document or media, or the inmate's reason for wishing to review it;
  - (2) The request to view materials shall be granted within forty-eight (48) hours not including weekends and holidays;
  - (3) The inmate shall be allowed to view the materials privately, away from other inmates and staff, subject only to visual supervision by assigned or dedicated staff to the extent allowed by security protocols.
- b. Staff shall not review the content of the stored materials for any purpose other than to determine if the materials contain contraband. Any such review shall occur in the presence of the inmate.

10. Any search of legal materials, including material stored in an inmate's cell, shall occur in the inmate's presence.

- a. This restriction shall not prohibit institution staff, who are packing

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an inmate's property for a move from checking the property for contraband, provided that staff does not read the legal material.

- b. Institution staff may confiscate legal mail items from an inmate, but staff may not review or inspect those items until the inmate is present except as provided in subsection 10. a. above.

L. Special Postal Services

1. An inmate may send correspondence by registered, certified, or insured mail so long as the inmate pays the necessary costs required by the U.S. Postal Service.
2. Express mail, COD, private carriers, and similar services shall not be provided for outgoing mail.

M. Forwarding Mail

1. Inmates shall inform their correspondents of a change of address.
2. Staff shall forward all first class mail of a transferred or released inmate to the address provided by the inmate. However, if the inmate is on a court trip, hospital stay, or other trip, that is anticipated to last less than seven (7) days, the mail, except privileged mail, shall be held until the inmate returns.
3. Mail forwarded to an inmate who is transferred or released shall continue for thirty (30) days after which his mail shall be returned to the sender, including privileged mail.
4. Every effort shall be employed to promptly forward privileged mail, but if the inmate is expected to return within forty-eight (48) hours, mail shall be held for the inmate's return.
5. All privileged mail returned to the sender shall have noted on the face of the envelope the reason for returning it and the last known address of the inmate.

N. Mail Returned to the Institution

1. Mail returned to the institution shall be opened and inspected for contraband prior to it being returned to the inmate sender.
2. Staff shall determine if returned mail contains material that originated from the inmate identified on the envelope to ensure that no substance, material, or property is being improperly sent into the institution. Further, staff shall determine, to the extent possible, that the mail has not been opened or tampered with before its return to the institution.

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3. Returned privileged mail shall be opened and inspected for contraband in the inmate's presence.

O. United States Postal Service

Notwithstanding other provisions of this policy, directives from the United States Postal Service shall be followed pertaining to mail received.

P. Inmate to Inmate Mail

1. Inmate to inmate mail shall be placed in the mailboxes located throughout the institution. It shall be stamped and processed through the U.S. Postal Service.
2. Inmate to staff mail shall be processed through the institutional mail room and shall not require postage.
3. All correspondence, except for legal or grievance paperwork, passed between inmates shall be processed as provided in subsection 1. of this section. Any inmate passing an item in any other manner shall be subject to disciplinary action.
4. Inmate to inmate mail shall consist of only correspondence. Any mail with an enclosure like stamps or a photograph shall be rejected.

Q. Violations of procedures in this policy may result in disciplinary charges or referral to appropriate authorities for prosecution.