

 <p style="text-align: center;"><b>KENTUCKY CORRECTIONS</b> Policies and Procedures</p>	Policy Number	Total Pages
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Authority/References	Subject	
<p>KRS 196.035, 197.020 ACA 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)</p>	<p><b>INMATE CORRESPONDENCE</b></p>	
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## I. DEFINITIONS

“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.

“Instant mail” means electronic correspondence that is sent through an approved vendor.

“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” means correspondence received or sent from or to a licensed attorney, a government official, state or federal courts, officials of Corrections, or the Department of Public Advocacy. Mail shall not be considered privileged mail if it does not concern a challenge to the legality of either the inmate’s criminal conviction or the conditions of his incarceration. Information, forms, and the like shall not be considered privileged mail.

“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.

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## II. POLICY and PROCEDURES

Correspondence received shall, if possible, be delivered to the inmate within forty-eight (48) hours of receipt during normal workdays, excluding weekends and holidays. Violations of procedures in this policy may result in disciplinary charges or referral to appropriate authorities for prosecution.

### A. Outgoing Mail

1. An inmate may send mail to any addressee, except as provided for 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 C. Privileged Mail;
  - b. Mail, excluding the mail indicated in subsection a. above, shall be sealed, subject to being opened by prison staff in order to determine that contraband is not being sent nor any violation of prison rules has occurred or is planned; or
  - c. If the 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).
3. An inmate who is indigent shall receive, upon request, postage and stationary sufficient to send at least two letters, weighing one ounce or less, per week in order to maintain community ties.
4. 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.
5. Mail which 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.
6. The institution shall stamp the mail envelope or container to identify the institution.
7. Staff shall advise inmates upon arrival at an institution that their outgoing mail, except privileged mail, is subject to being inspected and read, and that any threats, extortion, and the like may result in disciplinary charges or referrals to law enforcement officials.

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- a. 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 sends.
- b. Outgoing mail that contains material that constitutes a violation of prison rules or appears to be a violation of federal or state law may be rejected for mailing. However, mail shall not be rejected for containing criticism of the institution, its staff, or government officials.

8. The inmate shall affix sufficient postage stamps to the envelope to cover the costs of mailing the item.

9. Outgoing instant mail may only be pre-purchased by a non-incarcerated person.

#### B. Incoming Mail

1. An inmate may receive mail from any sender, except as provided in this policy.

2. An inmate may receive a standard white envelope, 9.5 by 4 inches or smaller, from a sender. 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.

3. Publications

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 from a legitimate publisher may be received if requested by the inmate and do not violate this policy. A list shall not be maintained of specific publications that shall be rejected.

4. 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 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.

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- c. An inmate may appeal the decision to not deliver the item through the process provided below.
- d. Instant mail shall be processed as regular incoming mail. Instant mail shall be downloaded and printed by the mailroom staff.

5. Appeals

- a. An inmate may appeal a decision to not deliver an item in writing to the Warden.
- b. An inmate shall appeal the rejection within five (5) days of receipt of the notice of rejection.
- c. The Warden or his designee shall respond in writing within fifteen (15) days of receipt of the inmate's appeal.
- d. If the appeal is denied, a further appeal shall not be allowed.
- e. A publisher may appeal a decision to not deliver an item to an inmate to the Commissioner.
- f. The Commissioner or designee shall respond in writing within fifteen (15) days of receipt of the publisher's appeal.

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, the mailing label shall be removed by the institution before delivery to the inmate.
- b. If mail is rejected and no appeal is made as provided above, 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

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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.

- f. Any material rejected by the Department shall be held by the appropriate staff. The Warden or his designee shall notify the publisher of the rejection within three (3) business days and the specific reason(s) by use of the Notice of Unauthorized Mail Form.

#### C. Privileged Mail

1. Incoming privileged mail shall be opened in the presence of the inmate and inspected for contraband.
2. The identity of the sender shall be evident on the face of the envelope or mailing container. Incoming privileged mail shall not be read if the sender is adequately identified on the envelope and the purpose of the mail is not an issue in determining whether it should be considered privileged mail. In the absence of adequate identification or a question about the purpose, staff may open and inspect the mail to ascertain whether it is, in fact, privileged mail.
3. 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.
4. 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.
5. 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.
6. 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.

#### D. Prohibited Sexually Explicit Materials

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1. Sexually explicit materials pose a threat to the security, good order, and discipline of the institution and may facilitate criminal activity. Sexually explicit materials further present a significant risk of sexual harassment of employees.
2. 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.
3. The Warden shall designate a staff member or members to review incoming publications to determine if they violate this policy and 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 above.

E. Other Prohibited Mail

Outgoing or incoming mail may be rejected, in addition to other provisions of this policy, if it falls into any of the following:

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 to formulate escape plans, to commit a crime, or 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;

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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.
  - a. Inmates may order catalogs and the like by paying the distributor to mail it by first or second class postage.
  - b. Catalogs or magazines to which the inmate subscribes shall not be considered prohibited mail under this subsection unless it includes prohibited items listed above.
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 stationary, money orders, cash or checks, except as allowed in the Incoming Mail section of this policy.

F. 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.

G. 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.

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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 or the last known address of the inmate.

#### H. Returned Mail

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

#### I. United States Postal Service

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

#### J. 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. Post Office.
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 J., 1. 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.