



**ADMINISTRATIVE
REGULATION**

**Department of
Correctional Services
State of Nebraska**

NUMBER

205.01

PAGE

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INMATE MAIL

This Administrative Regulation is to be made available in law libraries or other inmate resource centers.

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SUMMARY of REVISION/REVIEW

Incorporated Policy Directive #015-007. Added Language for electronic messaging.

APPROVED:



Scott R. Frakes, Director
Nebraska Department of Correctional Services

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| | | INMATE MAIL | |

PURPOSE

Regulations governing inmate mail are necessary to attain the Nebraska Department of Correctional Services (NDCS) objectives to provide opportunities for inmate self/career development and maintain a safe, secure and humane environment for inmates, staff and the public.

GENERAL

Each institution, consistent with its function and the nature of its inmate population and programs, shall develop its own version of this regulation within the limits and guidelines which follow.

There shall be no restrictions on the number of letters, length, language, content or source of mail or publications, except when there is a reasonable belief that the limitation is necessary to protect public safety or institutional order and security.

As used herein, the term “mail” shall include packages.

The current version of Title 68 Chapter 3-MAIL PRIVILEGES of the Rules and Regulations of the Nebraska Department of Correctional Services promulgated under the Administrative Procedures Act is herewith incorporated into this Administrative Regulation. This document will be referred to as Chapter 3” below.

This Administrative Regulation and Chapter 3 shall be reviewed annually and updated as needed.

PROCEDURE

I. MAIL PRIVILEGES

- A. In addition to contraband specified in Chapter 3, contraband includes any items which are not acquired by inmates through authorized institutional channels or sources.
- B. The Warden may allow certain published materials to be stored by the facility and viewed privately but not retained by the inmate.
- C. Outgoing Mail Procedures - United States Postal Service (USPS)
 - 1. Inmates may send mail or electronic messages to any person or organization they choose, except as prohibited by Chapter 3 (Attachment A) or this regulation.
 - 2. If the Warden has reasonable cause to believe that an inmate is using the mail to engage in an unauthorized business enterprise or to defraud the public, the Warden should document the facts that led to that conclusion and a direct order should be given to the inmate to discontinue the practice. Evidence that the inmate has not complied with the direct order may cause the inmate to be subject to disciplinary action.
 - 3. Outgoing inmate mail will be stamped with the following disclaimer: NOTICE! This correspondence was mailed by an inmate confined in a facility operated by the NDCS. Its contents are uncensored.
 - 4. All internal facility correspondence must in all cases contain the commitment name and the number of the inmate. An inmate may also sign the communication with a recognized alias, such as a Muslim name. If inmates have legally changed

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their names, both the committed name and the legal name will be shown, and the legal name must be signed. Inmates may use only their legally changed name and number on the envelope of outgoing mail.

5. If an inmate attempts to send mail to an inmate in another facility or in the same facility, the Warden at the sending facility shall have the authority to intercept the mail and return it to the sender under the same standards as provided for incoming mail in paragraph D.1, below.
6. Inmates will not be permitted to use the state's inter-office mail system to send mail to NDCS staff, except for these exceptions:
 - When such mail involves applications for a speedy trial directed to the NDCS' Special Services Unit
 - Appeals to the Appeals Board
 - Requests to NDCS Accounting
 - Good-Time Restoration Appeals
 - Step 2 Grievance Procedures
 - Appeals of Classification Actions
 - Requests to the ADA Coordinator
 - Requests to Mental Health Practitioner Supervisor/Inpatient Healthy Lives Program
 - NDCS Social Worker
 - NDCS Reentry Unit
 - NDCS Adult Parole Administration

Employees should not assume responsibility for mailing these materials for inmates through interoffice mail except for disciplinary and/or classification. This mail must either be folded or stapled with the proper return address. On the return address, the inmate must use his/her number, committed name or legally changed name and the name of the facility where the inmate is assigned. Inmates must use the U.S. Mail Service for all other correspondence.

7. Contraband which is removed and confiscated from outgoing inmate correspondence, other than money, will be disposed of unless it is needed as evidence for prosecution. The method of disposition will be decided by the Warden. Disposition of money orders will be in accordance with AR 113.02, *Inmate Accounting*.
8. All properly stamped and addressed mail will normally leave the facility no later than 24 hours after the sender has deposited it for mailing, and packages will leave the facility no later than 48 hours after deposit, with the exception of weekends and holidays. Outgoing electronic messages will generally be delivered within the same time frame as mail through the United States Postal Service Mail or packages may be delayed when mail/packages contain suspected contraband, additional postage is required, a facility emergency exists, and so forth.
9. Inmates may not possess postage stamps. Pre-stamped envelopes will be available for purchase in the facility canteens. Inmates will be allowed to possess up to 40 pre-stamped envelopes. A 10" pre-stamped envelope will be sold.

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Inmates may receive self-addressed stamped envelopes when these come from government agencies, an attorney, a publisher, vendor, religious headquarters, or an educational facility (so long as the envelopes are enclosed as part of a bona fide approved correspondence course.) The Assistant/Associate Warden must approve all correspondence courses and will work with designated Education staff. Self-addressed stamped envelopes may also be received in legal mail. Self-addressed stamped envelopes may not be mailed in from any other source and for any purpose other than as stated herein. All other pre-stamped envelopes must be purchased from the facility canteen. A supply of stamps will be maintained in each canteen for use by inmates who purchase special events cards, such as birthdays, anniversaries and holidays.

10. When an inmate purchases a special event card and necessary postage, the canteen staff will affix the necessary postage on the envelope after the card and postage are purchased by the inmate. The inmate will not be given the loose stamp for the inmate to place on the envelope. Since Community Corrections Center – Omaha (CCC-O) has no canteen, inmates there may possess up to 40 stamps.
11. Inmates are not permitted to enclose postage or stamped envelopes in outgoing mail, except when requesting return mail from government agencies, or when approved by the Warden for special circumstances, such as facilitating family correspondence with children.
12. Disclaimer stamping of inmate mail as described in 1.C.3 above and search of outgoing mail as described in 1.C.7 above will not be done at community corrections facilities.
13. Inmates are not allowed to receive communication by facsimile machine or by telegram.

D. Incoming Mail Procedures

1. Letters, Publications, Commercial Items
 - a. All publications, including but not limited to, newspapers, magazines, soft-back books, paperbacks and hardbound books, must be prepaid and sent to the inmate directly from the publisher. Prepaid publications received from bookstores will be permitted. Such items shall be received in envelopes or packages which display a commercially printed or stamped return address. Items which contain an invoice or packing slip showing an amount due will be returned to the sender at the inmate's expense. The inmate will be required to complete an institutional check for the cost of returning the items. Items shipped from a commercially printed or stamped return address are assumed to have been prepaid unless a billing is included.
 - b. Religious publications, tapes and CD's may be received directly from churches or other religious bodies after being screened by the religious coordinator.

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- c. If an inmate is denied a publication and subsequently files a grievance, the content of the publication will be reviewed by the Warden or designee. The reviewer shall not have participated in the original decision to deny the publication. The grievance response must cite the specific reasons for denial of the publication.
- d. If facility staff can determine the inmate for whom the mail is intended, such mail must be delivered. Mail must be delivered if it contains only the inmate's legally changed name and institutional number.

All incoming letters to inmates will be stamped with a receiver stamp near the inmate's name, when possible. This stamp will include a date that the material was received and the facility that received it.

- e. All incoming mail will normally be delivered to the inmate within 24 hours and packages within 48 hours after its receipt at the facility, except during weekends and holidays. Incoming electronic messages will generally be delivered within the same time frame as mail through the United States Postal Service. Mail or packages may be delayed when mail/packages contain suspected contraband; a facility emergency exists, and so forth.
- f. If an inmate's mail is held for not complying with policy, a "Notice of Held Mail" form (Attachment C) shall be completed. The inmate will receive a copy of the form noting the reason the mail was held.

2. Inmate-to-Inmate Mail

- a. Mail from inmates in other correctional facilities or the same facility is presumed to constitute a threat to the safety, security or good order of the facility where the addressee resides. Such mail can be used to communicate escape plans, to arrange assaults and other violent acts, and to facilitate the development of informal organizations that threaten the security of correctional facilities. Electronic messages between inmates will not be allowed.
- b. Only the Warden at the facility where the addressee resides may issue written permission for inmate to inmate correspondence. Such permission may be granted when the inmates are immediate family (immediate family is defined as spouse, parent, step-parent, person acting in the place of parent as documented in the facility file, sibling, step-brother, step-sister, half-brother, half-sister, child, step-child, grandparent, grandchild) or the inmates have a common interest in a legal matter and the Warden determines that the addressee's receipt of such correspondence will neither threaten the safety, security or good order of the facility nor jeopardize the rehabilitative process of the addressee. Inmates who are not immediate family and who desire to correspond regarding a parental interest in a child must show evidence of financial support of that child. Inmates approved for inmate-to-inmate correspondence may include appropriate photographs with their correspondence. Once both Wardens agree to allow two inmates to correspond, this permission to correspond will be honored by other

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NDCS facilities/programs to which the inmate(s) may transfer. Permission to correspond is always subject to review and may be cancelled for good cause.

- c. When incoming mail from another inmate is denied, the mail will be returned to the sending facility along with a Notice of Returned/Damaged Mail. A copy of the Notice of Returned/ Damaged Mail will be given to the inmate to whom the mail was addressed. If either the sender or the addressee wishes to challenge the Warden's decision to return the mail, the inmate may use the NDCS grievance mechanism set forth in NDCS Chapter 2.
- d. Mail from inmates in other correctional facilities or the same facility may not be sealed by the sender and may be inspected and read by staff at the sending and receiving facilities. The Warden at the sending facility shall also have the right to intercept mail and return it to the sender under the same standards set out above.
- e. Inmates may be allowed to correspond through the mail with other inmates "out on bond." However, if there is a safety or security concern, such mail may be read by authorized staff. An inmate out on bond may not send money to incarcerated inmates. When mail is received from an inmate out on bond, any letter will be given to the addressee, however, any enclosed money order or check will be returned to the sender.

3. Contraband

Contraband which is removed from incoming inmate mail which is not returned to the sender may be turned over to law enforcement authorities for possible prosecution. Contraband not returned to the sender or given to law enforcement will be disposed of according to facility procedures.

Chapter 3, Mail Privileges (Section 006.04). Inserts in publications may be removed from the publication if the inserts are contraband. The inserts may be removed without notice to the inmate. After the inserts that are contraband are removed from the publication, the publication can be delivered to the inmate.

4. Funds Received

- a. If any money orders or checks are found to be contained in any incoming mail, such will be credited in accordance with AR 113.02. Notification of such credit will be provided to the inmate by the Business Manager/designee of the appropriate facility. Senders of checks or money orders must be certain that their first and last names and complete address appear on the check, money order or envelope. A receipt will be issued to the inmate by the Business Manager/ designee of the appropriate facility. (See AR 113.02, *Inmate Accounting* for additional details.)
- b. Travelers checks found in any incoming mail will not be accepted by the facility. Cash/coin will be placed on the inmate's confiscated account

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Inmates shall be instructed to inform family and friends of these requirements. The inmate will be notified of this action. A receipt will be issued to the inmate by the business manager/designee of the appropriate facility.

- c. Inmates may not receive money (in any form) from family/friends or other inmates or any persons on the approved visiting list of other inmates.

E. Privileged Mail

1. Inmates may send and receive sealed letters to and from the following entities:
 - a. Judge of any court;
 - b. Clerk of any court;
 - c. Licensed attorneys;
 - d. Organizations that provide legal, advocacy or civil rights services (e.g. ACLU, Legal Aid of Nebraska, NAACP, Death Penalty Litigation Clinic, Social Security Administration)
 - e. Ombudsman /Office of Public Counsel
 - f. Federal agency chief administrative or grievance officer;
 - g. State agency chief administrative or grievance officers;
 - h. Federal and state officials – A federal or state official is a person elected or appointed to carry out a governmental function;
 - i. Law enforcement agencies or officials;
 - j. Nebraska Health and Human Services Division of Public Health;
 - k. Nebraska Health and Human Services Licensure and Investigations Division;
 - l. Nebraska Health and Human Services administrators or department heads;
 - m. Director, Deputy Directors and the Warden of any Nebraska Department of Correctional Services facility;
 - n. Members of the Nebraska Parole and Pardons Boards;
 - o. Health care providers (e.g. private physicians, Veterans Administration); and
 - p. State and U.S. Senators

Mail from these individuals will be treated as confidential and opened and inspected only in the presence of the inmate, unless waived in writing. The Warden of the facility from which such mail originates may choose to stamp any such outgoing mail disclaiming any administrative responsibility for the nature or contents of such mail.

2. Inmates in Restrictive Housing (does not include Protective Custody) will observe the following procedures when sending privileged mail:
 - a. Prior to sealing the envelope, the inmate will show the contents to a staff member through the cell door window.
 - b. Staff are only inspecting for contraband, they will not read the letter/contents.
 - c. The inmate will pass the envelope to staff after sealing it.

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3. Mail addressed to or from individuals must include the name and title of that person. Mail addressed to an organization is not required to contain the name of an individual. Mail from an organization to an inmate must include the name and title of an individual employed by the organization.
4. The name or firm affiliation of the sender must appear in commercial printing on the envelope, or the incoming mail will not be considered privileged mail. Any sender using envelopes which do not contain commercially printed names or official status who desires to have his or her mail to an inmate treated as privileged mail, must acquire the approval of the Warden. Without approval, such mail marked "Privileged" will be handled as standard, incoming mail.
5. Any incoming mail marked "Attorney-Client," or which in some other fashion is clearly indicated to be attorney-client communication, shall be opened only in the presence of the inmate-addressee.

F. Mail Constituting Threats to the Facility

With respect to the reading of incoming or outgoing mail, the Warden shall issue guidelines defining the types of mail which could constitute a threat to the safety, security or good order of that facility. Whenever such mail is read, the reader shall record the name and institutional number of the sender/addressee, the date of the reading, and the reasons why the mail was read.

After an item is read, it may be copied only if the Warden or designee determines that the mail does in fact contain statements or information which could threaten the safety or security of persons or property outside the facility. Copies of any such mail shall be retained only so long as they are needed to complete an investigation of the apparent threat, or so long as they are needed as evidence in a disciplinary proceeding or criminal action.

G. Indigent Inmates

1. Indigent inmates shall receive five, first class, U.S. postage embossed envelopes per month or the equivalent in metered mail to send letters in order to maintain community ties. Indigent inmates are those who have not had a balance of \$10.00 or more in their institutional and/or regular savings account during the past thirty days. Inmates shall have access to the courts for the sending of correspondence and pleadings regardless of their ability to pay postage. See AR 116.01, *Inmate Rights*.
2. Indigent status inmates will be allowed to write insufficient fund checks for postage in order to mail tort claims to the Office of Risk Management. Said mail will not be handled as privileged mail, that is, this mail may not be sealed by the inmate prior to placing it in the outgoing mail, nor will responses to the inmate need to be opened in the presence of the inmate.
3. Indigent postage does not include specialized USPS services (certified, return receipt).

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H. Unwanted Correspondence

Inmates may not send correspondence to a person who has notified the Warden's office verbally or in writing that such correspondence is unwelcome. The inmate will be given a direct order not to send the unwelcome correspondence and such order will be documented in an incident report. The inmate who persists in writing after the direct order has been given is subject to a misconduct report for violation of Rule II.E. Outgoing mail addressed to an individual from an inmate who has been directed not to send mail based on the individual's request will be stopped and may be used as part of the disciplinary process.

II. FORWARDING MAIL

When an inmate has been transferred to another correctional facility, the inmate's First Class mail will be forwarded. After an inmate is released, First Class mail will be forwarded if the Department has a forwarding address. If an inmate has been released and the Department does not have a forwarding address for the inmate, the mail will be returned to the sender.

REFERENCE

I. ATTACHMENTS:

- A. NDCS Rules and Regulations (12/21/2013) – Chapter 3 – Mail Privileges.
- B. Notice of Returned/Damaged Mail – DCS-A-adm-008 (rev. 5/10)
- C. Notice of Held Mail – DCS-A-adm-099 (2/02)

II. AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS

- A. Adult Correctional Institutions (ACI) (4th edition): 4-4266, 4-4275, 4-4487, 4-4488, 4-4489, 4-4490, 4-4491, 4-4492, 4-4493, 4-4494, 4-4495, 4-4496
- B. Performance Based Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-6A-01, 4-ACRS-6A-06, 4-ACRS-6A-07, 4-ACRS-6A-08, 4-ACRS-6A-09