

STATE OF IOWA DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURES		Policy Number IO-OR-05	Applicability <input checked="" type="checkbox"/> DOC <input type="checkbox"/> CBC
		Policy Code Public Access	Iowa Code Reference 13B.7
Chapter 3 INSTITUTIONAL OPERATIONS	Sub Chapter OFFENDER RIGHTS	Related DOC Policies AD-GA-11 OP-MTV-01 OP-MTV-03	Administrative Code Reference N/A
Subject OFFENDER LEGAL ACTIVITIES		ACA Standards 4-4274 4-4275 4-4276	Responsibility Michael Savala
		Effective Date September 2017	Authority Jerry Bartruff Director Signature on file at Iowa DOC

I. PURPOSE

To describe the legal resources that shall be available to offenders confined in Iowa Department of Corrections (IDOC) institutions.

II. POLICY

It is the policy of the IDOC to provide confined offenders with access to the courts and legal services as may be necessary to safeguard their statutorily and constitutionally mandated rights.

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III. DEFINITIONS

- A. Access to Courts - Federal or state judges, law clerks, and officers of the court including prosecuting attorneys, court administrators, clerk of court, ombudsman's office or attorneys.
- B. Indigent- An offender who has less than \$6.00 in his/her account, has not exceeded a \$6.00 balance in his/her account in the last thirty days and whose net revenue has not exceeded \$6.00 in the last thirty days.
- C. See IDOC Policy **AD-GA-16** for additional Definitions.

IV. PROCEDURES

- A. Access to Courts

Offenders confined in IDOC institutions shall be afforded access to the courts, counsel, and other resources adequate to enable them to pursue necessary legal activities. **(4-4274, 4-4275)**

- 1. Institutions shall have procedures permitting offenders to have access to courts. The procedures shall include:
 - A guideline for use of mail, visits, and use of equipment and supplies.
- 2. Electronic Law Library (ELL)

- a. ELL stations are placed throughout institutions at the discretion of the Warden.
- b. ELL stations will have a printed resource guide and laminated instructions explaining databases and overviews of content within each database.
- c. Offenders can also access ELL training materials in the form of online help screens. The screens provide research instructions and tips on navigating the databases.
- d. ELL stations will be restricted to research and read-only functions with no internet connectivity or printing.
- e. Offenders wanting printed copies of ELL material may contact the State Law Library, Iowa Prison Industries or other outside resources. Offenders are responsible for copying fees.
- f. There is no "save" function or "back" button to allow offenders to track the history of their research. Offenders must make written notations of their searches prior to logging out because each "log-in" begins a new research session.
- g. Offenders may be required to sign up to allow equal opportunities for all offenders to use the kiosk.
- h. Offenders who provide written proof of a pending court deadline will be given priority to access the ELL stations. However, offenders are required to manage their deadlines, so there is ample time for ELL access to be scheduled by institutional staff. Failure of the offender to do so will be taken into account by institutional staff whose primary responsibility is to afford all offenders an opportunity for ELL access.
- i. ELL sessions may be limited as necessary by institutional staff to afford other offenders access, but an offender will normally be allowed to conduct research for up to 45 minutes, at which time the offender will be automatically logged off.
- j. Offenders who display inappropriate behavior while accessing the ELL station may be immediately removed and institutional disciplinary procedures will be initiated.

3. Legal Material

The ELL stations will provide offenders the following legal resources:

- a. Iowa case law
- b. Iowa Annotated Statutes
- c. Iowa Digest
- d. Iowa Administrative Rules
- e. 8th Circuit case law
- f. U.S. Supreme Court Reporter decisions
- g. United States Code Annotated
- h. Federal Practice and Procedure
- i. *Sherpard's* Citations Service – U.S., Federal, Iowa
- j. Federal Habeus Corpus Practice and Procedure
- k. Constitutional Rights of Prisoners
- l. Bender's Federal Forms
- m. Iowa Court Rules
- n. Iowa Constitution
- o. U.S. Constitution
- p. Federal Court Rules

4. Offender ELL Assistants

- a. The Warden will designate offenders to act as an offender ELL Assistant. The number of offenders designated to act as ELL Assistant will be at the discretion of the Warden and will be based on the offender population and institutional need.
- b. The offender ELL Assistant will be trained by the ELL provider, with the assistance of the Office of General Counsel.

- c. Offender ELL Assistant will be responsible for assisting other offenders with locating information on the ELL stations and shall be prohibited from giving their personal opinions regarding any offender's case.
 - d. Offender ELL Assistant will be prohibited from receiving compensation for any legal assistance given, other than the institutional allowance for serving as a law clerk.
 - e. Offender ELL Assistant will not type forms or letters for other offenders or provide any other form of legal assistance.
 - f. Offender ELL Assistant who violate these restrictions may be removed from their duties and subject to discipline.
5. Visits with attorneys and bona fide legal assistants certified by an attorney as being qualified and under their supervision.
 6. One offender, not designated as a ELL Assistant, may assist another with in-house legal research/document preparation and is subject to the following restrictions:
 - a. Offender may not be compensated for such assistance.
 - b. Offender must be present when assisting another offender.
 - c. Offender shall not be allowed to possess another offender's legal material.

B. Law Books

An offender may retain in his/her possession personally owned law books that have been searched by staff, provided that permissible property levels are not exceeded. Department legal services established in IDOC Policy **AD-GA-11**, *Legal Assistance for Staff*, are not available to offenders, but the IDOC's General Counsel shall oversee the offender legal access program.

C. Visits

1. A confidential legal visiting area shall be identified where an offender may discuss legal matters privately with an attorney or authorized paralegal when an attorney has certified in writing as to the status of that paralegal.

2. An offender must agree to a legal visit and may decline to see an attorney making a request for a visit.
3. Limitations on attorney visits shall be imposed only in rare cases after a complete factual examination clearly indicates that such a visit presents a threat to the security of the institution and after consultation with IDOC General Counsel.
4. Visiting hours for attorneys shall be during regular visiting room hours. The Warden or Designee may approve special visiting hours.
5. The attorney visiting area shall be under the general supervision of staff. The supervising officer shall be able to visually observe the conduct of the visit without monitoring or recording of the discussions.

D. Telephone Access

1. Telephone access to attorneys shall be in accord with IDOC policy **OP-MTV-03**, *Offender Access to Telephones*.
2. No properly placed attorney/client phone call shall be monitored, other than verifying a legal call.
3. Staff shall advise offenders in the orientation program and through the orientation handbook of the means of obtaining an unmonitored attorney phone call.
4. Offenders may contact the ELL provider with research questions by dialing [REDACTED]. Any misuse of the telephone will result in immediate disciplinary action including, but not limited to, this research number being removed from your call list.

E. Correspondence

Correspondence shall be permitted between offenders and counsel properly identified as such without any review by staff other than inspection for contraband. IDOC Policy **OP-MTV-01**, *Offender Correspondence*, regulates this practice.

F. Personal Legal Matters

Legal material of a personal nature may be retained by an offender in the housing unit, subject to reasonable limitations on volume relating to safety and sanitation.

(4-4276)

G. Oaths and Personal Legal Materials

1. Each institution shall have at least one employee on its staff that is qualified under the laws of the state to administer oaths and acknowledgments (Notary).
2. If casework staff are statutorily or regulatory provided that authority, no additional personnel resources are required.
3. Where no sworn or affirmed statement is needed to file legal documents, this requirement is null.
4. An offender's attorney who is otherwise qualified to do so may provide this service to a client during a legal visit.
5. Where non-case management staff members are used to satisfy this requirement and those personnel are not available readily to the offender population, a system shall be established that provides prompt access to those services by written request. Such a request shall generally be honored within two working days after receipt, unless a compelling court deadline can be shown.

H. Mail Service

An offender may obtain, at personal expense, registered or certified mail service of process upon a demonstration that this manner of service is required to preserve a legal right or course of redress.

I. Indigent Status-Legal Correspondence

1. An offender declared "Indigent" may be granted financial assistance for legal correspondence as needed.
2. If an offender is determined to be indigent, the offender may receive up to \$3.50 credit to purchase supplies for legal correspondence (writing utensil, paper or legal pad, stamped envelopes).

3. The offender shall sign a store order to allow recovery of supply charges upon a deposit into the offender's account.
4. The offender's spending record may be considered prior to granting future credits.
5. The Warden or designee must approve any financial credit of more than the \$3.50 limit.

Replaces Policies IN-V-03 and IN-V-74.

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