

103 CMR 481.00: INMATE MAIL

Section

- 481.01: Purpose
- 481.02: Cancellation
- 481.03: Applicability
- 481.04: Access to Regulation
- 481.05: Definitions
- 481.06: Institutional Procedures
- 481.07: Collection and Distribution of Mail
- 481.08: Amount of Mail
- 481.09: Free Postage for Indigent Inmates
- 481.10: Privileged Mail
- 481.11: Identification and Processing of Privileged Mail
- 481.12: Inspection of Non-privileged Mail
- 481.13: Reading/Censoring/Disapproval of Incoming Non-privileged Mail/Publications/Excess Pages
- 481.14: Reading/Disapproval of Outgoing Non-privileged Mail/Publications/Excess Pages
- 481.15: Procedural Requirements for Disapproval of Incoming Non-privileged Mail/Publications/Excess Pages
- 481.16: Procedural Requirements for Disapproval of Outgoing Mail
- 481.17: Return Address on Outgoing Mail
- 481.18: COD Mail Prohibited
- 481.19: Prohibited Non-privileged Mail
- 481.20: Prohibition on Inmate-to-inmate Non-privileged Mail
- 481.21: Forwarding Mail
- 481.22: Time Limits
- 481.23: Emergencies
- 481.24: Responsible Staff
- 481.25: Annual Review
- 481.26: Severability Clause

481.01: Purpose

The purpose of 103 CMR 481.00 is to establish rules governing the sending and receiving of mail by inmates confined in state correctional institutions. The Department of Correction (Department or DOC) recognizes the importance of the use of mail by inmates to maintain appropriate contact with the community.

481.02: Cancellation

103 CMR 481.00 cancels all previous Department and institutional policy statements, bulletins, directives, orders, notices, rules or regulations regarding inmate mail or correspondence, which are inconsistent with 103 CMR 481.00.

481.03: Applicability

103 CMR 481.00 is applicable to all employees and inmates at all state correctional institutions within the Department; however, the Superintendent of MASAC may waive the applicability of 103 CMR 481.00 in whole or in part.

481.04: Access to Regulation

103 CMR 481.00 shall be maintained within the Central Policy File of the Department and shall be accessible to all Department employees. A copy of 103 CMR 481.00 shall also be maintained in each Superintendent's Central Policy File and at each inmate library.

481.05: Definitions

Attorney Verification System (AVS). System consisting of numerical codes and/or individualized stickers, which is utilized to verify legitimate privileged mail.

481.05: continued

Commissioner. The chief executive officer of the Department of Correction.

Court Official. A judge, court or an employee of a court of the United States or of the Commonwealth of Massachusetts, or an attorney employed by a state or federal governmental agency.

Deputy Superintendent. A deputy administrative officer of a state correctional institution.

Excess Pages. Excess pages include any portion extracted, photocopied, or clipped from a non-privileged publication, provided, however, that an inmate may receive a maximum of five pages per day, except Sundays and postal holidays, of a portion extracted, photocopied, or clipped from such items as an attachment to non-privileged personal mail. Nothing in Excess Pages shall be construed to limit the number of pages attached to, or enclosed with, privileged mail.

Indigent Inmate. Upon request for waiver of fees or cost, an inmate may be declared indigent if:

- (a) At the time of the request, the inmate has, in all accounts to which the inmate has access, a total amount less than or equal to \$10.00 plus the cost or fees sought to be waived; and
- (b) At no time for the 60 days immediately preceding said request, have the inmate's accounts contained more than \$10.00 plus the cost or fees sought to be waived. (*e.g.* request to waiver \$5.00 on July 1, 2015; indigent if, at no time since May 1, 2015, total in accounts has been more than \$15.00).

In addition to 103 CMR 481.05: Indigent Inmate(a) or (b), the Superintendent may in the Superintendent's discretion, designate an inmate as indigent if the inmate has less than \$2.00 in their account at the time of the request, or in other circumstances as the Superintendent deems appropriate.

Inmate. For the purposes of 103 CMR 481.00 only, an individual, whether in pretrial, unsentenced, or sentenced status, who is confined in a correctional institution, including those individuals admitted for evaluation or commitment to the Bridgewater State Hospital, and at the Massachusetts Treatment Center.

Mail. The term "mail" in this policy refers to correspondence, packages, or other physical mailings sent *via* the United States Postal System, or other authorized carrier.

Mail Officer. The employee at a correctional institution whose duties include the processing of mail.

Nudity. A pictorial depiction where genitalia, buttocks or breasts of individuals identifying as female are exposed. Publications containing nudity illustrative of medical, educational, or anthropological content may be excluded from this definition.

Privileged Mail Logbook. A logbook utilized to document the inmate's receipt of privileged mail.

Publication. Any non-privileged book, booklet, pamphlet, magazine, periodical, newsletter, newspaper, or self-published document, published by any individual, organization, company, or corporation, or governmental entity, which is generally available to the public through any means or media in printed or electronic form.

Sexually Explicit. A pictorial depiction of actual or simulated sexual acts, including sexual intercourse, anal or oral sex, or masturbation or material which promotes itself based upon such depictions on a routine or regular basis or in individual one-time issues.

Superintendent. The chief administrative officer of a state correctional institution.

481.06 Institutional Procedures

The Superintendent at each correctional institution shall develop written institutional policies designed to implement 103 CMR 481.00. Institutional policies regarding mail shall conform to the requirements set forth in 103 CMR 481.00 and shall be subject to the approval of the Commissioner or a designee.

481.07 Collection and Distribution of Mail

(1) Outgoing mail shall be collected directly from a locked mail box by a Department employee, in accordance with an established schedule, at least once each day, except Sundays and postal holidays. Prior to outgoing mail being placed in the locked mailbox, staff shall verify that the inmate depositing mail into the box is in fact the inmate whose name and return address appear on the envelope and that the envelope is sealed.

All outgoing mail shall be stamped on the reverse side of the envelope with language indicating that the correspondence is sent from a correctional institution. Mail shall be stamped in blue ink only; the stamp shall read as follows:

"This correspondence is forwarded from a Massachusetts Correctional Institution. The contents may not have been evaluated and the Department is not responsible for the substance or content of the enclosed material. If you have received unwanted correspondence from this inmate, call 1-866-684-2846 to stop future correspondence."

At no time shall outgoing mail be collected or otherwise handled by an inmate. All outgoing mail, including inter and intra-office mail, shall be processed through the institutional mailroom.

(2) Incoming mail shall be distributed to the receiving inmate by a DOC employee or electronically in accordance with an established schedule, at least once every day except Sundays and postal holidays, unless an article of mail is held pursuant to the provisions of 103 CMR 481.15 and 481.16. At no time shall incoming mail be distributed or otherwise handled by an inmate nor shall mail be left by the distributing employee in a commonly accessible place. Nothing in 103 CMR 481.00 shall limit the right of a Superintendent to withhold delivery of Publications from an inmate serving disciplinary detention.

(3) Outgoing mail shall be collected from the inmates and delivered to the post office, and incoming mail shall be picked up from the post office and processed in accordance with 103 CMR 481.07(2), except when an article of mail is held pursuant to the provisions of 103 CMR 481.16 and 481.17.

481.08: Amount of Mail

Except as provided in 103 CMR 481.09, there shall be no limitation placed on the number of persons with whom an inmate may correspond, nor shall there be any limitation on the separate mailings an inmate may send or receive.

481.09: Free Postage for Indigent Inmates

Indigent inmates shall be permitted to mail three letters first class weighing one ounce or less each week at institution expense. In addition, an indigent inmate shall be permitted, where necessary, to send an unlimited number of letters of any weight to any court official at institution expense. A charge shall not be placed against future deposits to an inmate's account for the cost of postage and materials supplied in accordance with 103 CMR 481.10.

481.10: Privileged Mail

(1) Mail sent by the following persons shall be considered privileged mail, and inmates shall be permitted to send and receive mail from the following persons in accordance with the procedures set forth in 103 CMR 481.11:

(a) Any officer of a court of the United States, of the Commonwealth of Massachusetts, or of any court of any state of the United States (*e.g.*, judge, government attorney, court clerk, parole board members, probation or parole officers);

(b) The President or Vice President of the United States or the Governor of the Commonwealth of Massachusetts;

481.10: continued

- (c) Any member of the Congress of the United States or any member (*e.g.*, legislator) of the General Court of the Commonwealth of Massachusetts;
- (d) The Attorney General of the United States or the Attorney General of the Commonwealth of Massachusetts;
- (e) The Director or any agent of the Federal Bureau of Investigation; and
- (f) The Superintendent of the state correctional institution in which the inmate is confined, an Assistant Deputy Commissioner or Deputy Commissioner of Correction, or the Commissioner of the Massachusetts Department of Correction.

(2) Inmates and persons with whom inmates may correspond as provided in 103 CMR 481.10(1) shall not use or permit others to use authorized privileged mail for personal, non-legal or non-official correspondence, the transmission of contraband, or the transmittal of communications to be given or forwarded to persons not specified in 103 CMR 481.10(1). Persons receiving unauthorized privileged mail, intended for a party other than the addressee, or privileged mail for forwarding, shall submit such mail to the Superintendent of the institution in which the inmate is confined. Inmates who fail to submit such mail to the Superintendent shall be subjected to disciplinary action.

(3) Attorneys shall be allowed to provide self-addressed, meter-stamped envelopes to their inmate clients. The envelope should be addressed to the law firm or to the individual attorney, contain only a meter-stamp (not a postage stamp) and may not be altered in any way. Should an inmate alter or attempt to utilize the meter-stamped envelope to send mail to anyone other than the original addressee, a disciplinary report shall be issued.

481.11: Identification and Processing of Privileged Mail

(1) Outgoing privileged mail shall not be opened for inspection or any other purpose or otherwise impeded in its transmission, if it meets the following requirements:

- (a) it is addressed to a person listed in 103 CMR 481.10(1);
- (b) if the inmate acknowledges that they are the sender of the correspondence or package, the inmate will be asked to open the correspondence or package for inspection;
- (c) it has been marked by the institution to indicate to the addressee that it has not been inspected or opened; and
- (d) it successfully passes a fluoroscope examination for contraband material if mailed from a medium or maximum security level facility, or, if mailed from a minimum or prerelease security level facility, it successfully passes a fluoroscope examination for contraband material when requested by the Superintendent and approved by the Commissioner.

(2) Outgoing privileged mail that does not successfully pass a fluoroscope examination shall be processed as follows:

- (a) the inmate whose name appears on the return address shall be notified of the unsuccessful fluoroscope examination of the privileged mail;
- (b) if the inmate acknowledges that they are the sender of the privileged mail, the inmate will be asked to open the privileged mail for inspection; and
- (c) if an inmate refuses to open such privileged mail for inspection upon request, the addressee's permission to open and inspect the privileged mail will be sought unless circumstances require the matter to be referred to the appropriate law enforcement agency by the Superintendent (*e.g.*, U.S. Postal Service, State Police, Federal Bureau of Investigation, District Attorney) for handling as appropriate, and the Commissioner shall be notified.

(3) Incoming privileged mail may be required to successfully pass a fluoroscope examination for contraband material but shall not be opened by a DOC employee except in the presence of the addressee inmate. A Privileged Mail Logbook shall be utilized to document the inmate's receipt of the privileged mail. The purpose of the inspection will be to receive and receipt any funds enclosed for the inmate, and/or to prevent the transmission of contraband to the inmate. The processing of funds, and/or contraband found in mail shall be in accordance with 103 CMR 403.00: *Inmate Property* and 103 CMR 481.00.

481.11: continued

(4) In order to prevent fraudulent privileged mail from entering DOC facilities, the DOC may implement an Attorney Verification System (AVS). If an AVS is established, the Department shall create internal procedures, that at a minimum, consist of the following:

- (a) Any attorney wishing to send privileged mail must attempt to participate in the AVS;
- (b) Forms/applications to participate in the AVS must be completed in their entirety;
- (c) Procedures to process mail from an attorney who does not attempt to comply with the AVS, or if the Department is not able to verify the privileged mail through the AVS;
- (d) Incoming privileged mail may not be opened by a Department employee except in the presence of the addressee inmate and for the purpose of receiving and receipting of any funds enclosed for the inmate and/or ascertaining that its contents are free of contraband. Privileged mail which complies with the AVS is presumed to have no contraband. Notwithstanding the use of an AVS, the Department retains and reserves the right to employ in its discretion internal procedures including, but not limited to, the use of K-9 Units, fluoroscopes, photocopying, and field testing, to ensure that the mail is legitimate privileged correspondence, and does not include contraband, and to conduct further investigation as warranted.
- (e) Nothing in 103 CMR 481.11 shall prohibit the Department from developing an additional system for delivery of privileged mail through electronic mail.

481.12: Inspection of Non-privileged Mail(1) Processing of Non-privileged Mail.

- (a) All outgoing, non-privileged mail being sent from a maximum or medium security level facility shall be required to successfully pass a fluoroscope examination for contraband materials. All outgoing non-privileged mail being sent from a minimum or pre-release security level facility may be required to successfully pass a fluoroscope examination for contraband materials when requested by the Superintendent and approved by the Commissioner. The opening and inspection of outgoing non-privileged mail at all security level facilities shall be at the discretion of the Superintendent to prevent the transmission of materials and/or information which represents a threat to security, order, rehabilitation or public safety, or appears to contain material not addressed to the addressee, but rather, material intended for other parties.
- (b) All incoming non-privileged mail may be required to successfully pass a fluoroscope examination for contraband materials, and shall be opened and inspected before delivery to the inmate. The purpose of inspection will be to receive and receipt any funds enclosed for the inmate; to verify and record the receipt of permitted personal property; and/or to prevent the transmission of contraband to the inmate. The processing of funds, permitted personal property and contraband found in mail shall be in accordance with 103 CMR 403.00: *Inmate Property*.
- (c) Notice shall be sent to the sender and the addressee, for both outgoing and incoming non-privileged mail, whenever contraband is confiscated, provided that the address is known. Such notice shall satisfy the requirements of 103 CMR 481.15 and 481.16. Any money order, cash, or check(s), confiscated as contraband shall be processed pursuant to 103 CMR 403.17(2).

(2) Mail Monitoring of Non-privileged Mail.

- (a) The Superintendent may authorize the reading or censoring of an individual inmate's incoming and outgoing non-privileged mail only to prevent interference with institutional goals of security, order, discipline, or if it might facilitate, encourage or instruct in criminal activity. Authorization for reading mail shall never be based upon an employee's personal views or for retaliation against an inmate.
- (b) In circumstances where staff has received specific information that a particular inmate's mail contains information which jeopardizes institutional security in accordance with the categories listed in 103 CMR 481.13(2)(a) through (j):
 1. Staff shall submit a Request for Inmate Mail Monitor form *via* Inmate Management System (IMS) to the Superintendent, which will include a detailed explanation as to the reason for the request in accordance with 103 CMR 481.13(2) and 481.14(2).
 2. The Superintendent will approve or deny said request *via* IMS. The mail monitor will expire 90 days from the date of approval.

481.12: continued

3. A one-time extension may be granted by the Superintendent for monitoring beyond the 90 days contingent upon a substantial belief that the initial condition under which the mail monitor was initially approved still exists. The request for this extension will be completed *via* the extension tab located on the original mail monitor request form that was submitted *via* IMS.
 4. If additional time is requested, the Superintendent shall be prudent and exercise conservative judgment when determining the necessity to continue the mail monitor. In this case, a new request *via* IMS will need to be initiated and approved for an additional 90 days.
- (3) Upon approval of a mail monitor by the Superintendent, the following recordkeeping and oversight will be established:
- (a) An approved mail monitor should not in any way delay delivery of incoming mail to the inmate or outgoing mail to the post office. The only exception to this time frame should be in those instances where mail is confiscated in accordance with 103 CMR 481.15 and 481.16.
 - (b) A central file shall be established and maintained by the Inner Perimeter Security (IPS). This file shall include copies of any mail that included information supporting the original request.
 - (c) An electronic log shall be maintained in IMS to be used whenever a staff member reads inmate mail pursuant to an approved mail monitor. Content of the log will include, but is not limited to:
 - (1) Inmate name and commitment number;
 - (2) Name of staff reviewing mail and date reviewed;
 - (3) Dates of monitor approval and expiration;
 - (4) Type of mail, *i.e.*, incoming/outgoing;
 - (5) Name and address of sender/receiver;
 - (6) Type of intelligence received; and
 - (7) Superintendent review.
 - (d) The electronic mail monitor log shall be reviewed by the Superintendent every 90 days and documented in the mail monitor log.
- (4) Photocopying of Incoming Non-privileged Inmate Mail.
- (a) In the event that all incoming inmate non-privileged mail at a particular institution creates an unacceptable risk for introduction of contraband, the Commissioner may authorize that all incoming non-privileged inmate mail at that institution shall be photocopied prior to distribution to inmates, and all newly received non-privileged paper mail shall be deemed contraband unless otherwise provided for in 103 CMR 481.00. When all incoming non-privileged inmate mail at an institution is photocopied, the Superintendent shall ensure that the following directives are followed:
 1. All inmates shall receive a photocopy of all authorized, non-privileged mail addressed to them. An electronic copy of the photocopy shall be sufficient if the inmate possesses an electronic tablet which permits the inmate to read and store the mail.
 2. All inmates shall receive a photocopy of authorized photographs mailed to them. Multiple pictures may be fitted to a standard size copy paper.
 3. In most instances, photocopies will be black/white photocopies of incoming non-privileged inmate mail. Color photocopies should be utilized for incoming non-privileged mail consisting of colored or crayon drawings, color photographs/pictures and greeting cards utilizing color. Color photocopies should not be used to photocopy colored paper or envelopes, yellow lined paper, letterhead, return address labels, signatures or postmarks appearing in color.
 4. Photographs emanating from verifiable photo-printing companies do not need to be photocopied. If the recipient inmate is housed at an institution for which the Commissioner has authorized incoming inmate non-privileged mail to be photocopied, photographs from a verifiable photo printing company may be sent directly to the institution
 - 5 Publications sent directly from publishers, shall not be photocopied or deemed Excess Pages when sent to an institution which is authorized by the Commissioner to photocopy all incoming inmate non-privileged mail; however any inserts, flyers and/or advertising

481.12: continued

materials included within said Publication, as well as any correspondence from publishers which includes all envelopes, may be photocopied. At institutions for which the Commissioner has authorized photocopying of all incoming inmate non-privileged mail, the Superintendent may provide either the original Publication, work with the sender to obtain a digital copy of the Publication, or create a single digital copy to forward to the recipient inmate electronically.

(b) In the Event that the Commissioner does not authorize the photocopying of non-privileged mail at an institution, the Superintendent reserves the right to authorize the photocopying of individual pieces of mail that are suspected of contraband.

(c) Contraband mail shall be processed in accordance with 103 CMR 403.15(1)(b). Photocopies of contraband items may be made. An inmate shall receive notices of contraband as required by 103 CMR 403.15: *Disposal of Inmate Property*, by way of paper or electronic notice, or paper or electronic posting. The inmate may choose to have the original mail sent to a designated person at the inmate's expense.

(d) If an inmate is transferred to a Department institution that is photocopying non-privileged inmate mail, photocopied mail and digital mail shall be transferred along with the inmate. Any original paper mail that the inmate has within /their possession shall be deemed contraband and treated in accordance with 103 CMR 403.15: *Disposal of Inmate Property*, with the exception of previously authorized photographs (which the inmate may retain). The inmate may request that any original paper correspondence, previously approved for cell retention, be photocopied and transferred at the Department's expense (up to the amount that the inmate is authorized to maintain in cell).

(e) For inmates being transferred to another jurisdiction that does not support digital mail, the inmate may request that digital mail and/or photographs be downloaded and printed at the Department's expense in order to allow for transfer of such mail.

(f) Department institutions which photocopy non-privileged mail shall ensure that the time frames set forth in 103 CMR 481.07(3) are adhered to, specifically: "Outgoing mail shall be collected from the inmates and delivered to the post office, and incoming mail shall be picked up from the post office and processed in accordance with 103 CMR 481.07(2), except when an article of mail is held pursuant to the provisions of 103 CMR 481.14 and 481.15."

481.13: Reading/Censoring/Disapproval of Incoming, Non-privileged Mail/Publications/ExcessPages

(1) Incoming Mail. 00It is the policy of the Department not to read, censor, or disapprove incoming mail, except where necessary to protect legitimate governmental interests.

(2) The Superintendent may authorize the reading, censoring or disapproval of incoming non-privileged mail only to prevent interference with institutional goals of security, order, discipline, or if the non-privileged mail might facilitate, encourage, or instruct in, criminal activity. Disapproval of incoming, non-privileged mail shall not be based upon an employee's personal views about the mail. The Deputy Superintendent or designee may disapprove receipt by an inmate of non-privileged mail, the contents of which fall as a whole or in significant part into any one of the following categories:

(a) The non-privileged mail contains depictions or descriptions of procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;

(b) The non-privileged mail contains depictions, descriptions or encouragement of methods of escape from correctional facilities, or contains blueprints, drawings or similar descriptions of any correctional institution within the Commonwealth;

(c) The non-privileged mail contains depictions or descriptions of procedures for the brewing of alcoholic beverages, or the manufacture of drugs;

(d) The non-privileged mail is written, in whole or in part, in code;

(e) The non-privileged mail contains depictions, descriptions or encouragement of activities that may lead to the use of physical violence or group disruption;

(f) The non-privileged mail contains encouragements or instructions in the commission of criminal activity;

(g) The non-privileged mail contains sexually explicit pictorial material or material which features nudity which, by its nature or content, poses a threat to the security, good order, or discipline of the institution; and

481.13: continued

- (h) The non-privileged mail facilitates the introduction of contraband drugs and other contraband.
- (i) The non-privileged mail, including any attachments or enclosures, contains Excess Pages.

(3) Incoming Publications.

- (a) The Deputy Superintendent may reject a Publication within a reasonable time of receipt to prevent interference with institutional goals of security, order, rehabilitation, or if the Publication facilitates, encourages, and/or instructs in criminal activity. The Deputy Superintendent may not reject a Publication solely because its content is religious, philosophical, political, social, or because its content is unpopular or repugnant. Publications which may be rejected by a Deputy Superintendent include, but are not limited to, Publications which fall within one of the categories listed in 103 CMR 481.14(2)(a) through (i). An inmate may not receive more than one copy of a particular issue of a Publication.
- (b) Publications may be excluded solely because they contain sexually explicit material or feature nudity as defined in 103 CMR 481.05. In addition, the Deputy Superintendent of the Treatment Center, with the approval of the Commissioner, may exclude additional types of material that may interfere with the treatment and rehabilitation process at that institution.
- (c) It is the Deputy Superintendent's decision as to whether or not a Publication should be excluded.
- (d) Sexually explicit material does not include material of a news or information type, or material illustrative of medical, educational, or anthropological content.
- (e) Deputy Superintendents may not establish an excluded list of Publications. Deputy Superintendents should review each issue of a subscription Publication prior to rejection of the issue. Rejection of several issues of a subscription Publication is not sufficient reason to reject the subscription in its entirety.
- (f) Where a Publication is rejected, the procedural requirements of 103 CMR 481.15 shall be followed. The notice required by 103 CMR 481.15 shall contain reference to the specific article(s) or material(s) considered objectionable.

- (4) Any employee reading inmate incoming mail pursuant to the Superintendent's authorization shall record such action in a logbook maintained for such purpose.

481.14: Reading/Disapproval of Outgoing Non-privileged Mail/Publications/Excess Pages

It is the policy of the Massachusetts Department of Correction not to read or censor outgoing mail, except where necessary to protect legitimate governmental interests.

- (1) The Superintendent may authorize the reading of outgoing non-privileged mail when in the Superintendent's opinion such action is necessary to prevent the transmission of materials and/or information which represents a threat to security, order, rehabilitation or to the public safety.
- (2) For outgoing mail, such authorization may be granted when the Superintendent has received specific information that mail contains information which may jeopardize security, order, rehabilitation or the public safety. Ordinarily, such specific information shall indicate that the contents of the outgoing non-privileged mail fall as a whole or in significant part into any one of the following categories:
 - (a) The non-privileged mail contains a transmittal of plans for escape or to introduce contraband into the prison;
 - (b) The non-privileged mail contains plans for criminal activity or any activity which violates any Departmental or institutional rule, regulation, order or policy;
 - (c) The non-privileged mail is written, in whole or in part, in code;
 - (d) The non-privileged mail contains threatening or harassing language or material, including sexually explicit material, intended for unwilling recipients;
 - (e) The non-privileged mail contains or appears to contain unsanitary or hazardous material (e.g. feces, insects, dirt, debris);
 - (f) The non-privileged mail contains an extortion demand(s);
 - (g) The non-privileged mail contains cash, drugs, jewelry or other contraband for transmittal outside the prison;

481.14: continued

- (h) The non-privileged mail is addressed to a recipient who has previously requested not to receive correspondence from the inmate pursuant to 103 CMR 481.19;
- (i) The non-privileged mail has an improper or no return address; or
- (j) The non-privileged mail contains material not intended for the addressee, but rather, material intended for other parties.

Where outgoing mail is read pursuant to 103 CMR 481.14, and prohibited information is found, the mail or relevant portion thereof may be confiscated or copied in the furtherance of an investigation. Notice of a confiscation shall be given to the inmate in accordance with 103 CMR 481.16.

(3) No employee may read outgoing non-privileged inmate mail, unless such reading is done in accordance with 103 CMR 481.14(1) and (2).

(4) Any employee reading inmate outgoing non-privileged mail pursuant to the Superintendent's authorization shall record such action in a log book maintained for such purpose.

481.15: Procedural Requirements for Disapproval of Incoming Non-privileged Mail/Publications/Excess Pages

(1) Incoming Non-privileged Mail. When any non-privileged mail or portion thereof, addressed to an inmate, is received at the institution, but is not delivered to the inmate for any reason set forth in 103 CMR 481.13, the inmate, and the sender when identifiable, shall be promptly notified, in writing, of the following:

- (a) the reason(s) for refusing to deliver the non-privileged mail or a portion thereof to an inmate; and
- (b) the fact that a written appeal may be submitted by the inmate or sender to the Superintendent.

(2) Publications. When any Publication addressed to an inmate is received at the institution, but is not delivered to an inmate for any reason set forth in 103 CMR 481.13, the inmate, and the publisher when identifiable, shall be promptly notified, in writing, of the following:

- (a) the reason(s) for refusing to deliver the Publication to an inmate(s); and
- (b) the fact that a written appeal may be submitted by the inmate or publisher to the Superintendent.

(3) A single notice of rejection to the publisher from a particular institution or the Department shall be sufficient where more than one inmate at the institution or within the Department receives the subscription Publication.

(4) The Deputy Superintendent may permit an inmate an opportunity to inspect, in the presence of correctional personnel, any disapproved material for purposes of filing an appeal, unless such review may provide the inmate with information of a nature which is deemed a threat or detriment to the security, good order or discipline of the institution or which might encourage or instruct in criminal activity. An inmate has the right to appeal the disapproval to the Superintendent by submission of a written appeal within seven calendar days of receipt of the Disapproved Mail/Publication/Excess Pages and Contraband Notice.

(5) The Superintendent shall, within a reasonable time from receipt of such an appeal, make a decision and notify the inmate.

(6) Where criminal activity is suspected, in addition to the foregoing procedures, the matter shall be referred to the appropriate law enforcement agency by the Superintendent (*e.g.*, U.S. Postal Service, FBI, State Police, district attorney), and the Commissioner shall be promptly notified.

481.16: Procedural Requirements for Disapproval of Outgoing Mail

(1) When any mail, or a portion thereof, whether privileged or non-privileged, is not mailed either because it fails to successfully pass a fluoroscope examination or its contents fall as a whole or in significant part into any one of the categories listed in 103 CMR 481.14(2)(a) through (j), the inmate shall be promptly notified in writing of the following:

481.16: continued

- (a) the reason for the refusal; and
- (b) notice that a written appeal may be submitted by the inmate to the Superintendent or designee.

(2) The Superintendent or designee shall, within a reasonable time of the receipt of such an appeal, make a decision and notify the inmate.

(3) Where criminal activity is suspected, in addition to the foregoing procedures, the matter shall be referred to the appropriate law enforcement agency by the Superintendent (*e.g.*, U.S. Postal Service, Federal Bureau of Investigation, State Police, District Attorney), and the Commissioner shall be notified.

481.17: Return Address on Outgoing Mail

(1) It shall be the inmate's responsibility to place their return address on the outside of all outgoing mail. The return address shall include the inmate's name and the address designated by the institution for inmate non-privileged mail. Mail without a return address, or where the inmate denies that they are the sender of outgoing non-privileged mail bearing their name, will not be forwarded to the post office.

(2) In addition, all outgoing mail shall be stamped on the reverse side of the envelope with language indicating that the mail is sent from a correctional institution. Mail shall be stamped in blue ink only; the stamp shall read as follows: "This correspondence is forwarded from a Massachusetts Correctional Institution. The contents may not have been evaluated and the Department of Correction is not responsible for the substance or content of the enclosed material. If you have received unwanted correspondence from this inmate, call 1-866-684-2846 to stop future correspondence."

481.18: COD Mail Prohibited

No collect-on-delivery (COD) mail of any kind shall be sent or accepted for an inmate, except with the approval of the Superintendent or designee.

481.19: Prohibited Non-privileged Mail

Notwithstanding any other provisions of 103 CMR 481.00, an inmate may be prohibited by the Superintendent from corresponding with a particular person if that person, or the person's parent or legal guardian in the case of a minor, has requested in writing that such non-privileged mail from the inmate be terminated. Whenever such non-privileged mail is not mailed, the inmate shall be notified. Such notice shall satisfy the requirements of 103 CMR 481.16

481.20: Prohibition on Inmate-to-Inmate Mail

An inmate may be permitted to send mail to an inmate confined in any other correctional or penal institution in the Commonwealth only if the other inmate is either a member of the inmate's immediate family or is a party in a legal action in which both inmates are parties representing themselves. The Superintendent may approve such mail in other exceptional circumstances, with particular regard to the nature of the relationship between the two inmates, and the security level of the institution. The following additional limitations apply:

- (1) The Superintendents at both the sending and receiving institutions must approve of the mail;
- (2) Such incoming or outgoing mail at institutions of all security levels may, for reasons of safety or security, be inspected and read by staff at either the sending and/or receiving institution pursuant to the authorization of the Commissioner or institution Superintendent in accordance with applicable guidelines and requirements set forth in 103 CMR 481.12, 481.13 and 481.14.

481.20: continued

(3) When an inmate's request to send inmate-to-inmate mail is approved by both Superintendents, a copy of the approval document(s) shall be placed in each inmate's six-part folder, and a copy shall be maintained in the mail room of both institutions.

(4) Superintendents shall develop a logging process to show approvals and disapprovals for inmate-to-inmate mail. Approved inmate-to-inmate non-privileged mail shall be reviewed every 90 days.

(5) The prohibition on inmate-to-inmate mail applies only to Department of Correction inmates incarcerated in a Department of Correction or county facility in Massachusetts.

481.21: Forwarding Mail

(1) Mail received for an inmate who has been transferred or released from the institution where the mail is received shall be forwarded promptly, whenever possible, or returned to the sender.

(2) Change of address cards shall be readily available at each institution for issue to inmates, upon request, who are scheduled for transfer or release from the institution. Inmates shall be responsible for notifying their correspondents and the publishers of their subscriptions of any change of address.

(3) Mail for inmates who are on escape status shall have their mail marked "Return to Sender" and returned to the post office. Where appropriate, return may be delayed until such time as appropriate law enforcement officials are notified.

481.22: Time Limits

Time limits set forth in 103 CMR 481.15 and 481.16 are directory and may be modified by the Superintendent or the Commissioner, under appropriate circumstances.

481.23: Emergencies

Whenever in the opinion of the Commissioner, Deputy Commissioner or the Superintendent of a state correctional institution, an emergency exists which requires suspension of all or part of 103 CMR 481.00, they may order such suspension, except that any such suspension lasting beyond 48 hours must be authorized by the Commissioner.

481.24: Responsible Staff

The Superintendent of each institution shall be responsible for implementing and monitoring 103 CMR 481.00.

481.25: Annual Review

103 CMR 481.00 shall be reviewed at least annually by the Commissioner or a designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy to the Central Policy File indicating revisions, additions or deletions which shall be included for the Commissioner's written approval and shall become effective pursuant to applicable law.

481.26: Severability Clause

If any article, section, subsection, sentence, clause or phrase of 103 CMR 481.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 481.00.

REGULATORY AUTHORITY

103 CMR 481.00: M.G.L. c. 124, § 1(b), 1(c), 1(q), and M.G.L. c. 127, § 87.