

103 CMR 481.00: INMATE MAIL

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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 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 Departmental 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 of Correction.

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

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.

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 he or she 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 his or her discretion, designate an inmate as indigent if the inmate has less than \$2.00 in his or her account at the time of the request, or in other circumstances as he or she deems appropriate.

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

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

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

Publication. Any book, booklet, pamphlet, magazine, periodical, newsletter, newspaper, or similar document, including stationery and greeting cards, published by any individual, organization, company, or corporation which is distributed or made available through any means or media for a commercial purpose. Publication includes any portion extracted, photocopied, or clipped from such items, 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 personal correspondence as long as the material is not prohibited by 103 CMR 481.00.

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 of Correction (Department or DOC) 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 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

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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 directly to the receiving inmates by a DOC employee 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 time until the completion of said detention time.

(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 delivered to the inmates, within 24 hours of collection, except when an article of mail is held pursuant to the provisions of 103 CMR 481.14 and 481.15.

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 number of letters 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) Inmates shall be permitted to mail to and receive letters from the following persons in accordance with the procedures set forth in 103 CMR 481.12:

(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;

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- (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, correspondence intended for a party other than the addressee, or letters or packages for forwarding, shall submit such communications or materials to the Superintendent of the institution in which the inmate is confined. Inmates who fail to submit such communications or materials 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) it includes on the outside of the envelope the inmate's name and return address, including the name of the correctional institution it is being sent from;
- (c) it has been marked by the institution to indicate to the addressee that it has not been inspected or opened;
- (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 pre-release 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:

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- (a) the inmate whose name appears on the return address shall be notified of the unsuccessful fluoroscope examination of the correspondence or package;
- (b) if the inmate acknowledges that he or she is the sender of the correspondence or package, he or she will be asked to open the correspondence or package for inspection;
- (c) if an inmate refuses to open such correspondence or package for inspection upon request, the addressee's permission to open and inspect the package 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 and for the sole purpose of ascertaining that its contents are free of contraband. The purpose of the inspection will be to receive and receipt any funds enclosed for the inmate, to verify and record the receipt of permitted personal property, and 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* and 481.00.

481.12: Inspection of Non-privileged Correspondence and Packages

(1) All outgoing, non-privileged correspondence and packages 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 correspondence and packages 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 and packages 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.

(2) All incoming non-privileged correspondence and packages 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 to prevent the transmission of contraband to the inmate. If there is reason to believe contraband is being introduced through the mail based on the paper color, texture, *etc.*, a photocopy of the original correspondence rather than the original correspondence may be forwarded to the inmate. The processing of funds, permitted personal property and contraband found in

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correspondence shall be in accordance with 103 CMR 403.00: *Inmate Property*.

(3) Notice shall be sent to the sender and the addressee, for both outgoing and incoming 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 confiscated as contraband shall be processed pursuant to 103 CMR 403.17(B)

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

(1) Incoming Correspondence. It is the policy of the Massachusetts Department of Correction not to read, censor, or disapprove incoming correspondence, except where necessary to protect legitimate governmental interests.

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

- (a) The correspondence contains depictions or descriptions of procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;
- (b) The correspondence 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 correspondence contains depictions or descriptions of procedures for the brewing of alcoholic beverages, or the manufacture of drugs;
- (d) The correspondence is written, in whole or in part, in code;
- (e) The correspondence contains depictions, descriptions or encouragement of activities that may lead to the use of physical violence or group disruption;
- (f) The correspondence contains encouragements or instructions in the commission of criminal activity;
- (g) The correspondence 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.
- (h) The correspondence facilitates the introduction of contraband drugs, *etc.*

(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

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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 (h). 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.

481.14: Reading/Disapproval of Outgoing Non-privileged Correspondence/Publications

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 correspondence when in his or her 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 a particular inmate's mail contains information which may jeopardize institutional security, order, rehabilitation or the public safety. Ordinarily, such specific information shall indicate that the contents of the outgoing correspondence fall as a whole or in significant part into any one of the following categories:

(a) The correspondence contains a transmittal of plans for escape or to introduce contraband into the prison;

(b) The correspondence contains plans for criminal activity or any activity which violates any Departmental or institutional rule, regulation, order or policy;

(c) The correspondence is written, in whole or in part, in code;

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- (d) The correspondence contains threatening or harassing language or material, including sexually explicit material, intended for unwilling recipients;
- (e) The correspondence contains or appears to contain unsanitary or hazardous material (*e.g.* feces, insects, dirt, debris);
- (f) The correspondence contains an extortion demand(s);
- (g) The correspondence contains cash, drugs, jewelry or other contraband for transmittal outside the prison;
- (h) The correspondence is addressed to a recipient who has previously requested not to receive correspondence from the inmate pursuant to 103 CMR 481.19;
- (i) The correspondence has an improper or no return address; or
- (j) The correspondence contains material not intended for the addressee, but rather, material intended for other parties.

Where outgoing mail is read pursuant to 103 CMR 481.13, 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 inmate mail unless authorized to do so by the Commissioner or the Superintendent.

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

481.15: Procedural Requirements for Disapproval of Incoming Correspondence/Publications

(1) Correspondence. When any correspondence, 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 481.14, 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 correspondence or a portion thereof to an inmate;
- (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 481.14, 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);
- (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

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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 Correspondence/Publication 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, F.B.I., 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 (g), the inmate shall be promptly notified in writing of the following:

- (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, F.B.I., 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 his or her return address on the outside of all outgoing letters or packages. The return address shall include the inmate's name and the address designated by the institution for inmate mail. Letters

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or packages without a return address, or where the inmate denies that he or she is the sender of outgoing correspondence bearing his or her 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 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 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) letters or packages of any kind shall be sent or accepted for an inmate, except with the approval of the Superintendent or designee.

481.19 Prohibited Correspondence

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 correspondence from the inmate be terminated. Whenever such correspondence 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 Correspondence

An inmate may be permitted to correspond with 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 correspondence 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 correspondence;

(2) Such incoming or outgoing correspondence 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

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Commissioner or institution Superintendent in accordance with applicable guidelines and requirements set forth in 103 CMR 481.12, 481.13 and 441.14.

(3) When an inmate's request for inmate-to-inmate correspondence 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 correspondence. Approved inmate-to-inmate correspondence shall be reviewed every 90 days.

(5) The prohibition on inmate-to-inmate correspondence 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, he or she 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), nd c. 127, § 87.