

POLICY AND ADMINISTRATIVE PROCEDURES

Indiana Department of Correction

Manual of Policies and Procedures

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XIX. PRINTED MATTER:

An offender may acquire or possess printed matter on any subject. However, printed matter shall be inspected and may be excluded if the matter is contraband or prohibited property. An offender must receive printed matter mailed directly from the publisher, the distributor or an accredited institution of higher learning, unless the offender or the sender receives prior approval from the Facility Head to receive the printed matter from another source.

Printed matter which threatens the security of the facility or program, contains multiple copies or has an invoice indicating an amount due shall be considered prohibited property. Examples of the types of publications or materials that are considered prohibited property and shall be excluded include, but are not limited to, those:

- A. Depicting or describing procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;
- B. Depicting, describing or encouraging methods of escape from correctional facilities, or contains blueprints, drawings or similar descriptions of correctional facilities;
- C. Depicting or describing procedures for the brewing of alcoholic beverages or the manufacture of drugs;
- D. Written in code;
- E. Depicting, describing or encouraging activities which may lead to the use of physical violence or group disruption;
- F. Encouraging or instructing in the commission of criminal activity; or,
- G. Any publication that features nudity or any other material depicting nudity.

The term “nudity” means a pictorial depiction where genitalia or female breasts are exposed.

The term “features” means the publication contains depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues. The following are examples of commercial publications which, based on current practices of the publisher, may be distributed to

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inmates even though they may contain nudity because the publication does not feature nudity as defined above:

- National Geographic
- Our Body, Our Selves
- Sports magazine swimsuit issues
- Lingerie catalogues

Any publication may change a single issue or its general policies and practices at any time which would make it acceptable or unacceptable for distribution. The above examples are guidelines only and are subject to change.

For purposes of this section, written text in the publication does not qualify a publication as containing nudity.

This prohibition includes personal photographs of nude persons, as well as photographs of nude persons taken from books, magazines, electronic media, or other sources, that are sent to offenders in or with letters or other mailings. Printed materials that contain nudity for educational, medical or anthropological purposes are not included in this prohibition; however, they shall be reviewed on a case by case basis to ensure that they are in compliance with these administrative procedures.

- H. Containing sexually explicit material which by its nature or content poses a threat to the security, good order or discipline of the facility or facilitates criminal activity.

The term “sexually explicit” means a pictorial depiction of actual or simulated sex acts including sexual intercourse, oral sex, or masturbation.

For purposes of this section, written text in the publication does not qualify a publication as sexually explicit. However, publications with a sexual content will be reviewed on a case by case basis and are subject to exclusion if they pose a threat to the security or good order of the facility or facilitate criminal activity. Such publications may include those that contain printed or written depictions of:

- Deviate sexual conduct (as defined in IC 35-42-4-2);
- Exhibition of the uncovered genitals in the context of masturbation of other sexual activity;

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- Exhibition of the uncovered genitals of a person who appears to be under sixteen (16) years of age;
- Sado-masochistic abuse (as defined in IC 35-49-1-8); or,
- Sexual intercourse or deviate sexual conduct with an animal;
- Sexual conduct or sexual acts that are in violation of state or federal statutes (e.g. rape, child molesting or exploitation, vicarious sexual gratification, sexual battery, incest).

Printed matter that has been edited by the publisher, distributor or another person in an attempt to circumvent the prohibition of sexually explicit materials may not meet the requirements of these administrative procedures. If the edited printed material still depicts sexual conduct that is not approved by these administrative procedures, the printed matter shall be withheld from the offender.

Printed matter may not be excluded from an adult facility solely on the grounds that it is obscene or pornographic, unless it is obscene under Indiana law.

Printed matter that does not meet the Department's standards may be excluded only on an issue by issue basis. Printed matter obtained at a cost for an offender must be pre-paid.

If it is determined that a portion of a publication is to be excluded from a facility in accordance with the previous procedure, the entire publication shall be excluded. Staff shall not attempt to remove the offending portions of the publication and give the remainder to the offender. The offender shall be advised that the publication is to be excluded. The offender shall be provided with a State Form 21682 and allowed to determine a disposition for the excluded publication.

Printed matter that is received at a facility that contains unsolicited items that are considered prohibited property (such as computer disks, stickers, music compact disks, etc.) or unsolicited advertisements that are not appropriate shall be confiscated and not delivered to the offender. Staff shall notify the offender of the inappropriate items. If the item can be removed from the printed matter without damaging or destroying the printed matter, the offender shall be given the option to accept the printed matter without the objectionable item or sending the entire printed matter out of the facility. If the offender decides to accept the printed matter without the objectionable item, the offender shall be required to authorize the facility to dispose of the item in the most appropriate manner.

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An offender may file a grievance regarding the exclusion of printed matter. If the offender files a grievance, the facility shall hold the confiscated printed matter pending the resolution of the grievance. If the offender grieves to the Regional Director/Operations level, the facility shall ensure that an adequate description of the printed matter is sent to the reviewing authority so that a decision may be rendered. If the reviewing authority does not believe that the description is adequate to make a decision, the reviewing authority may request that the confiscated printed matter be sent to Central Office for review. If the decision of the Regional Director/Operations is to uphold the decision of the facility, in addition to notifying the offender and facility in accordance with the Offender Grievance Process, the Deputy Commissioner/Operations, if not the person making the decision, shall be notified. Upon notification, the Deputy Commissioner or designee shall notify all facilities that the printed matter has been excluded so that there will be consistency in regards to the printed matter that is permitted in the facilities.

XX. DISPOSITION OF EXCLUDED OR CONFISCATED CORRESPONDENCE:

The disposition of excluded or confiscated correspondence may be challenged by an offender in accordance with policy 00-02-301, "The Offender Grievance Process," unless otherwise directed by an order of a court.

Correspondence that is excluded or confiscated shall be retained pending exhaustion of the grievance process. If the correspondence is found to be legitimately confiscated or excluded, it shall be disposed of in accordance with:

- A. Safety and security of the facility or program;
- B. Any applicable statute or promulgated rule; and,
- C. Convenience of the department.

Prior to the disposition of the correspondence, or property that has been removed from correspondence, the facility shall ensure the offender has the opportunity to indicate the preferred disposition. State Form 21682, DISPOSITION OF OFFENDER PERSONAL PROPERTY/CORRESPONDENCE, shall be completed and signed by the offender, in the presence of staff, prior to the disposition. In those cases where the offender refuses to complete State Form 21682, staff shall indicate this refusal on the form. The completed State Form 21682 shall be filed in the offender's facility packet. Should the confiscated or excluded property be determined to be contraband, the facility shall not be required to follow this procedure.