

<p style="text-align: center;">STATE OF VERMONT AGENCY OF HUMAN SERVICES DEPARTMENT OF CORRECTIONS</p>	<p style="text-align: center;">Access to Courts for Incarcerated Individuals</p>		<p style="text-align: center;">Page 1 of 21</p>						
<p style="text-align: center;">CHAPTER: PROGRAMS – EDUCATION SERVICES</p>	<p style="text-align: center;">#385</p>	<p>Supersedes: #385, <i>Inmate Access to Courts Staff Guidance Document</i>, and <i>Inmate Access to Courts Inmate Handbook Guidance Document</i>, all dated 02/12/2018; IM: <i>Inmate Access to Courts</i>, dated 03/28/2017</p>							
<p>Local Procedure(s) Required: No Applicability: All staff (including contractors and volunteers) Security Level: “B” – Anyone may have access to this document.</p>									
<p>Approved:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;"><u>SIGNED</u></td> <td style="width: 33%; border: none;"><u>06/13/2024</u></td> <td style="width: 33%; border: none;"><u>06/27/2024</u></td> </tr> <tr> <td style="border: none;">Nicholas J. Deml, Commissioner</td> <td style="border: none;">Date Signed</td> <td style="border: none;">Date Effective</td> </tr> </table>				<u>SIGNED</u>	<u>06/13/2024</u>	<u>06/27/2024</u>	Nicholas J. Deml, Commissioner	Date Signed	Date Effective
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PURPOSE

Within the inherent limitations of resources and the need for facility health, safety, security, order, and discipline every pro se incarcerated individual has the fundamental constitutional right to meaningful access to courts. Meaningful access to courts includes filing non-frivolous initial complaints that address post-conviction challenges through which an incarcerated individual seeks relief from a sentence imposed by a court and conditions of confinement.

AUTHORITY

3 V.S.A. § 3052(a); 28 V.S.A. §§ 102(b)(1), 102(b)(2), 802(c)(3).

DEFINITIONS

Qualified Legal Claims: An incarcerated individuals' access to courts applies only to those areas directly connected to incarceration. In addition to criminal proceedings, qualified legal claims include:

- Vermont State court actions:
 - Civil Rights Complaints pertaining to treatment or conditions of confinement that include circumstances, situations, or events that involve an incarcerated individual's custody, transportation, incarceration, or supervision;
 - Motions for Sentence Reconsideration (V.R.Cr.P. 35);
 - Post-Conviction Relief petitions (13 V.S.A. §§7131-37);
 - Habeas Corpus petitions (V.R.C.P. 80.4);
 - Reviews of Governmental Action (V.R.C.P. 75);
 - Furlough Revocation Appeals (V.R.C.P. 74);
 - Small Claims Court property claims against DOC (in accordance with the policy on claims by individuals under the custody and supervision of DOC); and
 - Appeals of Qualified Legal Claims; and
- Federal court actions:

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- Civil Rights Complaint pertaining to treatment and/or conditions of confinement (42 U.S.C. §1983);
- Habeas Corpus (28 U.S.C. §2254 for Prisoners in State Custody); and
- Habeas Corpus (Federal PCR) (28 U.S.C. §2241 & 2255 for Prisoners in Federal Custody).

POLICY

The Department of Correction's (DOC's) policy is to ensure that incarcerated individuals have access to courts in accordance with the procedures described below. Pro se incarcerated individuals shall be provided with adequate resources and the opportunity to prepare and file initial qualified legal claims with the court consistent with legitimate penological objectives.

Incarcerated individuals do not have a constitutional right to a law library or legal assistance from another incarcerated individual when reasonable alternative means are available. This policy does not create rights in any person. The services outlined in this policy may be modified, consistent with law, to respond to altered circumstances or conditions.

No person shall discriminate against any incarcerated individual because they have lawfully opposed any act or practice involving a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

GENERAL PROCEDURES FOR ACCESS TO COURTS

A. Facilitating Access to Courts

1. Each Superintendent, or designee, shall establish local facility rules for access to courts, consistent with this policy.
2. The Superintendent, or designee, may suspend any provision or section of this policy for a specific period in an emergency or extended disruption of normal facility operation.
3. The Superintendent, or designee, and Supplemental Housing Facility Operations Manager shall ensure that all pro se incarcerated individuals

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preparing or filing a qualified legal pleading have access to courts consistent with this policy.

B. Orientation

1. During the orientation process, the Corrections Service Specialist (CSS) shall:
 - a. Advise an incarcerated individual on local facility rules consistent with this policy. This information shall include:
 - i. The location and hours of operation for the law library;
 - ii. How to request and receive scheduled access to the law library;
 - iii. How to request and receive authorization for one incarcerated individual to provide another incarcerated individual with legal assistance;
 - iv. How to view this policy on a law terminal or tablet;
 - v. Conduct required when exercising the incarcerated individual's right to access the courts;
 - vi. Providing the incarcerated individual with a copy of VTLL02 law library use request form; and
 - vii. Identifying the facility's Law Library Administrator (LLA), to whom questions about this policy can be addressed; and
 - b. Obtain the incarcerated individual's electronic signature on the offender access to electronic equipment acknowledgement form in the Offender Management System (OMS), in accordance with the policy on incarcerated individual access to electronic equipment.
2. The CSS shall identify all:
 - a. Language access needs and ensure that the incarcerated individual understands their access to court right during orientation; and
 - b. Disability needs in accordance with the DOC policies on effective communication and Americans with Disability Act (ADA).
3. When language access services or disability accommodations are necessary, staff or incarcerated individuals may need extensions to complete required tasks.

C. Law Library Access and Hours of Operation

1. The Superintendent, or designee, shall determine the hours the law library is open, and ensure:

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- a. The law library is open to general population at least 20 hours each week, including evenings and weekends, subject to the status of the facility (e.g., emergency, planned lock down, holiday);
 - b. Scheduling conflicts with programming, employment, visiting, religious services, recreation, and education are minimized; and
 - c. Incarcerated individuals requesting access to the law library are scheduled in a manner which ensures equal opportunity.
2. To schedule time in the law library, an incarcerated individual shall complete, and hand-deliver a VTLL02 law library request form to the Incarcerated Individual Law Librarian (IILL) or Law Library Administrator (LLA), or designee, unless the local facility rule specifies differently.
 3. An incarcerated individual's request for extended law library hours to meet an imminent court deadline of 10 business days or less, shall be submitted in writing to the LLA, or designee, and shall include the court's order or court rule citation.
 4. Incarcerated individuals whose custody status prohibits access to the law library, a law terminal, and a tablet, and who are not represented by an attorney shall submit a VTLL04 legal research request form to the Legal Education Director (LED), c/o Central Office at NOB 2 South 280 State Drive, Waterbury, VT 05671-2000.

D. Rules of Conduct

1. Each incarcerated individual shall be permitted to possess personal legal documents pertaining to active legal cases in which they are a named party. An incarcerated individual may be subject to disciplinary action for claiming any other documents as legal work.
 - a. Documents related to closed cases are considered excess property. Incarcerated individuals with documents related to a case that is closed shall:
 - i. Mail them to someone outside the facility at their own expense;
 - ii. Have someone come to the facility to pick them up; or
 - iii. Have them disposed.
 - b. Documents related to cases belonging to another incarcerated individual, regardless of whether they are open or closed are considered contraband. Staff shall:
 - i. Confiscate and hold these documents as evidence for an administrative due process hearing and grievance appeal, if

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- applicable, in accordance with the policies on contraband and due process;
- ii. Return them to the owner; or
 - iii. Dispose of them.
2. The LLA, or designee, in consultation with the LED, may:
- a. Restrict any incarcerated individual from physical access to the law library, including its equipment, and materials; and
 - b. Revoke and prohibit an incarcerated individual's privilege of assisting other incarcerated individuals with legal work if they:
 - i. Seek, accept, or are paid compensation, through payment, barter, or trade, in exchange for providing authorized or unauthorized legal assistance to another incarcerated individual;
 - ii. Are found to be in possession of another incarcerated individual's personal legal documents.
 - a) An incarcerated individual can be found in possession of another's personal legal documents if they are found:
 - 1) On their person or their clothing;
 - 2) In their personal belongings or cell; or
 - 3) In an area that they control, provided there is independent evidence that they knew the personal legal documents were there. Independent evidence of knowledge includes:
 - (a) Information supporting they had knowledge the personal legal documents were there;
 - (b) Behavior observed by facility staff that led to suspicion that they were hiding another incarcerated individual's personal legal documents; or
 - (c) Observation by facility staff that the incarcerated individual was in possession of another incarcerated individual's personal legal documents.
 - b) Personal legal documents belonging to another incarcerated individual include items necessary to prepare formal legal pleadings such as:

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- 1) Handwritten or typewritten notes, drafts of pending briefs, or petitions;
 - 2) Documents that the incarcerated individual intends to include in the completed pleading to the court;
 - 3) Formal discovery documents related to pending litigation including transcripts of depositions and verbatim court proceedings;
 - 4) Completed and signed complaints, petitions, motions, or briefs which have been filed with the court and are pending or determined court decisions or orders; and
 - 5) Legal mail.
- iii. Sign or use another incarcerated individual's name or jacket number when drafting, signing a pleading, addressing or sending mail, or completing a DOC, or other state form;
 - iv. Remove, damage, or misuse law library materials, equipment, or supplies;
 - v. Cause facility staff to believe that their physical presence in the law library would disrupt normal operations;
 - vi. Enter the law library without prior LLA, or designee, approval or without the IILL present;
 - vii. Leave the law library without facility staff approval; or
 - viii. Bring in canteen items, personal property, or other items unrelated to legal research or the preparation of qualified legal claims.
3. Facility staff shall prepare the appropriate disciplinary report (DR) when they suspect that an incarcerated individual violated local facility rules, or any procedures in accordance with this policy, and there is no acceptable alternative means of resolution.
 4. If an incarcerated individual is found guilty after the administrative hearing the Hearing Officer may impose sanctions in accordance with the policy on incarcerated individual discipline. The sanction(s) may include loss of the privilege to access the law library and equipment, loss of the privilege to assist other incarcerated individuals with legal work, or restitution to replace or repair any law library materials, equipment, or supplies that were removed, damaged, or misused.

LAW LIBRARY POSITIONS, RESPONSIBILITIES, AND JAILHOUSE LAWYERS

A. Legal Education Director (LED)

The Legal Education Director (LED) is a licensed attorney providing system-wide monitoring and operational oversight for the Access to Courts Program to include policy development, program planning, and operation.

1. The LED shall not provide legal advice or legal opinions or represent incarcerated individuals in legal or administrative proceedings.
2. Communication with the LED is not privileged or confidential.

B. Law Library Administrator (LLA)

The LLA is an Assistant Superintendent, or functional equivalent, designated by the Superintendent to facilitate, monitor, and secure the overall operations of the law library, while acting as a liaison to the LED. The LLA shall:

1. Approve and schedule incarcerated individuals' access to the law library. Before scheduling an incarcerated individual access to the law library or law terminal, the LLA shall verify that the incarcerated individual has signed the offender electronic equipment acknowledgement form and a copy is available in OMS. Due to limited space and equipment the priority for scheduling shall be:
 - a. Pro se sentenced incarcerated individual with a docket number for an active case regarding a qualified legal claim;
 - b. Pro se sentenced incarcerated individual researching a qualified legal claim;
 - c. Pro se sentenced incarcerated individual seeking miscellaneous resources (e.g., accessing a policy, question for the law librarian);
 - d. Sentenced individual represented by an attorney; and
 - e. Pre-sentenced detainee;
2. Schedule the incarcerated individual's limited use of the typewriter to type only qualified legal pleadings;
3. Approve or deny photocopy requests from incarcerated individuals. The photocopy request may be denied:
 - a. Based on the reasons listed on the VTLL05 legal photocopy request form;
 - b. When the form has not been reviewed and signed by the ILL; or

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- c. If the incarcerated individual owes money on their trust/commissary account which would require the incarcerated individual to duplicate original qualified legal pleadings and attachments by handwriting or typing copies. The LLA is permitted to only photocopy attachments that cannot be handwritten or typed (e.g., grievances, staff contacts, case staffings);
4. Coordinate legal education attendance, class schedule, and location with facility staff and the DOC's Legal Education Contractor;
5. Ensure that the law library is adequately staffed;
6. Hire an IILL in consultation with the LED;
7. Provide the IILL with a copy of this policy;
8. Access the administrative monthly report forms shared folder in OneDrive to download and print a sufficient number of preprinted law library administrative forms for the law library. The forms for the law library shall include:
 - a. VTLL02 Law Library Use Request Form;
 - b. VTLL02a Law Library Sign in Sheet;
 - c. VTLL04 Legal Research Request Form;
 - d. VTLL05 Legal Photocopy Request Form;
 - e. VTLL06 Legal Photocopies Tracking Sheet
 - f. VTLL08 Law Terminal Use Form;
 - g. VTLL09 Typewriter Use Form; and
 - h. VTLL11 End of Month Report;
9. Maintain a sufficient number of preprinted law library administrative forms in living units to include:
 - a. VTLL02 Law Library Use Request Form;
 - b. VTLL04 Legal Research Request Form; and
 - c. VTLL05 Legal Photocopy Request Form;
10. Collect all completed library administrative forms from the IILL and forward the documents to the LED so they are received no later than the 10th day of each month;
11. When an incarcerated individual requests permission to assist another incarcerated individual, identified as having a learning disability or low literacy, in legal matters:
 - a. Determine if the working relationship between the two incarcerated individuals is feasible;

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- b. Add a contact note in each incarcerated individual's OMS record indicating whether the arrangement has been approved or denied, and why; and
- c. If approved, monitor the incarcerated individuals for compliance with the following conditions:
 - i. All legal assistance occurs during regularly scheduled law library, recreation, or dayroom hours and shall not conflict with work or program schedules;
 - ii. The legal assistance does not compromise health, safety, security, order or discipline of the correctional facility;
 - iii. There is no possible exposure to either incarcerated individual's no contact orders; and
 - iv. Neither incarcerated individual is on restricted status;
- 12. Coordinate with the ADA Director or Health Equity Program Director with questions regarding equity concerns related to any provision in this policy; and
- 13. Initiate investigations and issue appropriate DRs to incarcerated individuals for missing law library legal materials and supplies, tampering with equipment, or any violation of this policy.

C. Incarcerated Individual Law Librarian (IILL)

- 1. The IILL shall:
 - a. Attend and pass all legal education classes provided by the DOC's Legal Education Contractor;
 - b. Have a designated workspace in the law library and necessary supplies, as determined by the LLA;
 - c. Maintain a sufficient number of law library administrative forms to fulfill responsibilities;
 - d. Complete and collect the following forms and submit them to the LLA by the 5th day of the following month:
 - i. VTLL02 Law Library Use Request Form;
 - ii. VTLL02a Law Library Sign in Sheet;
 - iii. VTLL04 Legal Research Request Form;
 - iv. VTLL05 Legal Photocopy Request Form;
 - v. VTLL06 Legal Photocopies Tracking Sheet
 - vi. VTLL08 Law Terminal Use Form;
 - vii. VTLL09 Typewriter Use Form; and

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- viii. VTLL11 End of Month Report; and
- e. Perform other related functions that the LLA and LED may assign.
- 2. ILLs may provide limited assistance to incarcerated individuals by:
 - a. Providing information on the availability of resources in the law library and on the law terminals, permissible use of the typewriter, indigent supply requests, legal photocopying, mail services, and costs assessed to the incarcerated individual;
 - b. Reviewing VTLL05 legal photocopy request form to ensure:
 - i. The form is completed entirely, accurately, signed and dated by the incarcerated individual;
 - ii. The document for photocopying is attached to the form and is a qualified legal pleading; and
 - iii. The calculation of the cost for photocopies is accurate.
 - a) If the form is complete and accurate, the IILL shall sign the form and submit it to the LLA with the document to be photocopied; or
 - b) If the request is not complete or accurate, the IILL shall return the form to the incarcerated individual, with the document to be photocopied, to be corrected and resubmitted to the IILL; and
 - c. Acting as a hearing assistant, if requested by the charged incarcerated individual, with approval from the LLA.
- 3. The IILL shall not:
 - a. Draft legal pleadings or conduct legal research on behalf of an incarcerated individual unless the incarcerated individual requesting assistance has been identified as having a learning disability or low literacy;
 - b. Sign any document on behalf of another incarcerated individual;
 - c. Charge or receive any form of compensation from another incarcerated individual including payment, barter, or trade, in exchange for legal assistance; or
 - d. Give legal advice.
- 4. If the LLA suspects the IILL of violating this policy, and cannot identify an acceptable alternative means of resolution, the LLA shall:
 - a. Issue a DR and immediately suspend the IILL from their position.
 - b. If the DR is upheld, the LLA shall permanently remove them from the IILL position; and

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- c. Document the permanent removal from the ILL position as an Activity/Education Restriction alert in the incarcerated individual's OMS record, in accordance with the OMS technical guide on alerts.

D. Jailhouse Lawyer

1. A jailhouse lawyer is an incarcerated individual who may never have obtained any formal legal training assists another incarcerated individual in legal matters when suitable alternatives are not available.
2. A jailhouse lawyer does not have a freestanding Constitutional Right to provide legal assistance to another incarcerated individual.
3. A jailhouse lawyer shall submit a written request to and receive permission in writing from the LLA prior to providing legal assistance to another incarcerated individual.
4. A jailhouse lawyer providing legal assistance shall comply with DOC policies and local facility rules. Legal assistance provided by a jailhouse lawyer shall:
 - a. Occur with the approval of facility staff during regularly scheduled recreation, dayroom, and law library hours and shall not conflict with work or program schedules;
 - b. Not be provided using the mail directly or through a third person to individuals under the custody and supervision of DOC without the Superintendents', or designees', permission.
 - c. Not be provided to any other individual or member of the public in exchange for any form of compensation including payment, barter, or trade;
 - d. Not compromise the health, safety, security, order, or discipline of the correctional facility;
 - e. Not occur where there is a possible exposure to either incarcerated individual's no contact order; and
 - f. Not occur if either incarcerated individual is on restricted status.
5. A jailhouse lawyer is required to comply with the same rules of conduct as every incarcerated individual.
6. A jailhouse lawyer found guilty of violating any provision of this, other DOC policies, or local facility rules shall be permanently prohibited from assisting another incarcerated individual with any form of legal assistance in all correctional facilities. The permanent prohibition shall be recorded as an Activity/Education Restriction alert in the incarcerated

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individual's OMS record, in accordance with the OMS technical guide on alerts.

LAW LIBRARY EQUIPMENT, MATERIALS, SERVICES, AND SUPPLIES

A. Law Library Equipment and Materials

1. Facility staff shall maintain, control, and secure law library materials, supplies, and equipment.
2. Facility staff and volunteers, other than the LLA, or designee, shall not print, photocopy, or provide law library materials including blank court forms, to incarcerated individuals except at the LED's request.
3. The law library terminal contains an electronic collection of State and Federal legal resources including statutes, administrative rules, court rules, primary and secondary legal materials, the Vermont Judiciary's court forms, and DOC policies. The law terminals:
 - a. Require the incarcerated individual to acknowledge terms for use on the opening screen prior to accessing the resources thereon;
 - b. Log and monitor the incarcerated individual's use; and
 - c. Shall not be turned off, unplugged, or tampered with, to ensure proper function and the most up to date content.
4. Facility staff shall maintain and replace typewriters, as needed.

B. Legal Photocopying Services

1. Free legal photocopying is not provided.
 - a. Photocopying costs are deducted from the incarcerated individual's trust/commissary account.
 - b. Incarcerated individuals who owe money on their trust/commissary account may be denied photocopying services. They shall be required to handwrite or type copies of original qualified legal pleadings until the debt is paid in full.
2. Legal photocopying services to duplicate the initial complaint, petition, or appeal and exhibits are available to pro se litigants for qualified legal claims only.
 - a. Facility staff and volunteers shall not accept legal photocopy requests from incarcerated individuals and direct them to the law library and IILL.

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- b. To request legal photocopies the incarcerated individual shall:
 - i. Accurately complete, a VTLL05 legal photocopy request form in its entirety;
 - ii. Sign and date the form authorizing deductions from their trust/commissary account; and
 - iii. Submit the completed form with the attached document to be photocopied to the IILL.
3. Upon receipt of a request for photocopying, the IILL shall review the VTLL05 legal photocopy request form then submit to the LLA consistent with section C(2)(b), Incarcerated Individual Law Librarian (IILL).
4. The LLA, or designee, is encouraged to electronically transmit the VTLL05 legal photocopy request form with the document to be photocopied to the LED, as a matter of routine or with questions for review and approval.
5. The LLA and LED shall visually scan the VTLL05 legal photocopy request form and attached document to be photocopied prior to approval to ensure accuracy and that the document is a qualified legal pleading.
6. The LLA, or designee, or LED shall approve or deny the photocopying request.
 - a. If approved, the LLA, or designee, shall provide the photocopies to the IILL within five business days of approval.
 - b. If denied, the LLA, or designee, or LED shall enter the reason for denial on VTLL05 legal photocopy request form and return the form and document to be photocopied to the IILL.
7. The IILL shall deliver the photocopies, or the form, and document to the appropriate incarcerated individual as soon as possible.
8. Photocopies shall be denied based on the following criteria:
 - a. Incomplete, inaccurate, or unsigned VTLL05 legal photocopy request form;
 - b. The incarcerated individual is represented by an attorney;
 - c. The document for photocopying is not a qualified legal pleading (e.g., family law, landlord or tenant matters, bankruptcy, real estate, private litigation occurring prior to detention or sentencing, probate and estates which includes wills, powers of attorney);
 - d. Photocopies of exhibits or attachments that do not include a qualified legal pleading or cover letter to the court, sheriff, or pro se incarcerated individual's opposing attorney;

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- e. Documents that do not directly relate to the qualified legal pleading or cover letter to the court, sheriff, or pro se incarcerated individual's opposing attorney (e.g., pages from texts, news or magazine articles, personal notes). Printed cases, or DOC policies should be cited in the pleading in order for the court and attorney to retrieve from the internet;
 - f. Original documents not prepared by the incarcerated individual, unless the incarcerated individual has been identified as having a learning disability, low literacy, or a barrier accessing and understanding material written in English; and
 - g. Trust/commissary account debt and the incarcerated individual's refusal to work a facility job.
9. If an incarcerated individual refuses to permit a review of their personal legal documents by the IILL, LLA, or LED prior to photocopying, their request for photocopying shall be voided and the incarcerated individual will need to handwrite or type the copies they need.

C. Notary Service

Notary service is available for qualified legal pleadings and attachments. The Superintendent, or designee, shall establish a schedule to ensure reasonable access to a notary public within five business days from the date of the incarcerated individual's written request if the status of the correctional facility permits.

D. Legal Mail and Specialized Mailing Services

1. Free postage for legal mail is not provided.
 - a. The cost of postage for legal mail is deducted from the incarcerated individual's facility trust/commissary account and seven free first-class stamps weekly postage allowance.
 - b. If an incarcerated individual does not have the funds in their trust/commissary account and has used their weekly postage allowance, costs for postage will be deducted from all future funds received and their weekly postage allowance until paid in full. Legal mail will not be delayed due to a lack of funds.
2. Specialized mailing services are not provided (e.g., overnight, Fed-Ex, UPS, registered mail, certified mail, return receipt).

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E. Basic Office Supplies

1. Basic Office Supplies (e.g., pens, paper, envelopes) are available for purchase through the correctional facility commissary.
2. Incarcerated individuals shall not purchase, trade, or provide supplies to other incarcerated individuals.

F. Indigent Incarcerated Individuals

1. If the incarcerated individual does not have sufficient funds in their trust/commissary account to cover the costs of legal photocopying or postage and they have not refused to work a facility job, the incarcerated individual may obtain legal photocopies and postage on a reimbursable basis consistent with section B, Legal Photocopying Services, and D, Legal Mail and Specialized Mailing Services in this policy.
2. Debt incurred for postage or photocopies shall remain on the incarcerated individual's trust/commissary account until their entire trust/commissary account debt is paid in full.
3. Trust/commissary account debt may include fines, restitution orders, disposition of property pursuant to DOC policies and reimbursement for supplies, postage, photocopying fees, and any other debt incurred at a correctional facility.
4. Any money received from any outside source may be fully applied towards the incarcerated individual's trust/commissary account debt.
5. Movement to another facility or release from a facility does not clear or otherwise eliminate an incarcerated individual's trust/commissary account debt.

G. Pro Se Incarcerated Individual

1. A pro se litigant represents themselves in a court proceeding, rather than being represented by an attorney.
2. Pro se incarcerated individuals must observe all the rules of the legal action and the courtroom, just as an attorney would be expected to do. They must also have the mental capacity necessary to represent themselves. If their mental capacity is questioned it may be determined by the court.
3. Facility staff are not trained in the law and are not permitted to provide incarcerated individuals with legal assistance, advice, or opinions on legal matters and shall advise the incarcerated individual to consult an

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attorney or conduct legal research in the law library or on their personal tablet. This includes:

- a. Preparing or signing legal documents with the exception of notaries;
- b. Interpreting statutes, decisions or legal documents;
- c. Evaluating or speculating on the probable outcome of litigation, mediations, or negotiations;
- d. Explaining legal rights or obligations;
- e. Recommending a course of conduct or particular action in a legal matter;
- f. Interpreting the meaning of a court issued document;
- g. Explaining testimony, evidence, rights, obligations, or consequences after a court proceeding;
- h. Providing information or recommendations on how and when to begin, continue, or end a lawsuit;
- i. Advising court procedures;
- j. Testifying in court or providing the court with information about anything other than an incarcerated individual without consulting with DOC's Office of General Counsel or the Attorney General's Office;
- k. Printing or photocopying a blank court form, or advising what legal documents the incarcerated individual should draft or file with the court; and
- l. Photocopying legal documents at the request of and provided by the incarcerated individual to give to their attorney, sheriff, friend, family, another incarcerated individual, or file with the court.

INCARCERATED INDIVIDUALS RECEIVING NOTICE FROM THE COURT FOR A SCHEDULED HEARING REQUIRING REMOTE (FROM THE CORRECTIONAL FACILITY) PARTICIPATION

1. An incarcerated individual who receives mail scheduling a remote hearing or proceeding (notice) is solely responsible for confirming with their attorney or the court through mail, unit telephone, or their tablet that the court has:

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- a. Received confirmation from the facility that the facility staff and court equipment are available for the scheduled remote proceeding;
or
 - b. Issued a transport order to the sheriff for the incarcerated individual's in-person appearance at the courthouse.
2. If the court has not confirmed the scheduled proceeding with the facility or issued a transport order to the sheriff, it is the incarcerated individual's sole responsibility to immediately request by mail, unit telephone, or their tablet that the court contact the facility or the sheriff to confirm.
 - a. Facility staff may check the court's schedule to determine if the proceeding is scheduled. If not, facility staff will advise the incarcerated individual to contact the court or their attorney directly to advise the court to schedule the proceeding through the facility email alias.
 - b. Facility staff shall not directly communicate with the court on behalf of the incarcerated individual or facilitate an incarcerated individual's contact with the court from facility staff offices or by using state-issued DOC staff equipment (e.g., telephones, computers, laptops).
3. When the notice requires the court proceeding be held remotely and participating remotely may cause a disadvantage to the incarcerated individual, they should:
 - a. Contact the court immediately by mail, unit telephone, or their personal tablet; and
 - b. Request that the court order a sheriff's transport for the incarcerated individual to appear in-person at the courthouse for any of the following reasons:
 - i. The incarcerated individual is a pro se defendant in a criminal proceeding and is not waiving their right to appear in person at the courthouse.
 - ii. The court proceeding is an arraignment for a minor crime with bail conditions and the incarcerated individual is likely to be released at the conclusion of the arraignment. The incarcerated individual has more options to pay bail and sign paperwork for an immediate release and transportation available (e.g., public,

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- friends, family) to home that they have from the remote location of the correctional facility;
- iii. The court proceeding is confidential to protect vulnerable parties such as children, victims of certain crimes, or sensitive information. Due to facility space limitations, the location of the court's equipment, population movement schedules, and daily activities; the proceeding may be observed by others, interrupted due to facility events, or overheard by officers following safety and security procedures requiring periodic observation of incarcerated individuals;
 - iv. The court's video/audio equipment available at the correctional facility does not allow the incarcerated individual to communicate with their attorney fully and confidentially during the court proceeding, or ask questions that may arise during the court proceeding in order to understand and make informed decisions;
 - v. An interpreter is required;
 - vi. The incarcerated individual is visually impaired, D/deaf, Hard of Hearing, DeafBlind (blind or low vision), DeafPlus, DeafDisabled;
 - vii. The incarcerated individual has a disability or barrier accessing and understanding material written or spoken in English;
 - viii. The court's video/audio equipment available at the correctional facility does not allow the incarcerated individual to see or hear with clarity and the inability to identify and observe all participants at the proceeding;
 - ix. Any document that is required by the court to be signed by the incarcerated individual at the time of the proceeding or after to facilitate the incarcerated individual's immediate release, cannot occur and must be mailed to the correctional facility;
 - x. The court equipment used during remote proceedings is located in a space that does not provide privacy and the proceeding involves the minor child of the incarcerated individual; or
 - xi. Having all parties and attorneys in-person at the courthouse provides the opportunity for quick settlement, the incarcerated individual's release, and decreases the court's backlog.
4. If an appeal from the proceeding is taken, should the court not accept a request to appear in-person at the courthouse, the incarcerated

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individual's disadvantage by appearing remotely can be noted in the appeal.

STAFF INQUIRIES

DOC staff shall contact the Legal Education Director with questions about content and procedures in this policy and related issues not covered in this document.