Chapter 137-48 WAC
INMATE MAIL AND COMMUNICATIONS

WAC

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WAC 137-48-010 Purpose. The purpose of these rules is to maintain the safety, security, and discipline of adult prison facilities operated under the jurisdiction of the department of corrections in accordance with Title 72 RCW et al., by establishing guidelines for the development of departmental and institution level policies and rules governing the receipt and sending of mail by inmates to prevent the transmission of illegal items or contraband into or out of an institution. These rules shall not apply to work release facilities under the jurisdiction of the department.

[WSR 05-13-004, § 137-48-010, filed 6/2/05, effective 7/2/05. WSR 91-23-103, § 137-48-010, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. WSR 83-20-036 (Order 83-09), § 137-48-010, filed 9/27/83.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-020 Definitions. (1) "Contraband" includes illegal items, explosives, deadly weapons, alcoholic beverages, drugs, tobacco products, controlled substances and any item that is controlled, limited, or prohibited on the grounds or within the secure perimeter of a correctional facility as defined by department or institution policy.

(2) "Emergency situations" are critical illnesses, deaths, or similar situations experienced by members of the inmate's family or the inmate.

(3) "Illegal items" are items which are unlawful for any person to possess within the community as defined by the laws of the state of Washington, controlled substances as defined and listed in chapter 69.50 RCW or any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to another.

(4) "Indigent inmate" an inmate who has less than a ten-dollar balance of disposable income in his/her trust fund account on the day a request is made to utilize funds and during the thirty days previous to the request.

(5) "Inspection of mail" the physical act of opening, touching, and/or reading of mail, the use of mechanical or chemical systems and/or the use of animals to determine the presence of contraband or illegal items.

(6) "Legal mail" is correspondence to or from:

(a) Any court or opposing attorney/party, the Washington state bar association (WSBA), the indeterminate sentence review board (ISRB), the Washington state department of enterprise services office of risk management, Prison Rape Elimination Act (PREA) auditors certified by the United States Department of Justice, the department headquarters PREA coordinator and the department headquarters ombuds;

(b) The president or vice president of the United States, members of the United States Congress, embassies and consulates, the United States Department of Justice, state attorneys general, governors, members of any state legislature, and law enforcement officers in their official capacity;

(c) Attorneys of record in court cases that have been filed in a local, state, or federal court; and

(d) Attorneys receiving/sending correspondence with offenders concerning legal advice, including established groups of attorneys representing the offender (e.g., American Civil Liberties Union, disability rights Washington, legal service corporations, public defender associations).

To be considered and therefore handled as "legal mail" the correspondence must be clearly marked "legal mail" on the outside front of the envelope, and must have a mailing address or return address which clearly indicates that the mail is to or from one of the above listed sources.

(7) "Letters" consist of handwritten/typed communications and/or written/pictorial enclosures to and from inmates. A standard first class, one ounce letter shall be consistent with the dimensions, weight, and thickness as prescribed by the United States Postal Service. A properly addressed and stamped post card or greeting card shall be processed with the same standards as described above for a first class one ounce letter. Nonstandard first class mail requires a surcharge as established by the United States Postal Service.

(8) "Mail" consists of letters, publications, or packages delivered by the United States Post Office or by other established and authorized carriers.

(9) "Packages" a wrapped or boxed object; a parcel or bundle containing one or more objects, a container in which something is packed for storage or transport or mailing.

(10) "Publications" consists of reproduced handwritten or typed/printed or pictorial materials including books, periodicals, newspapers, magazines, and pamphlets.

(11) "Return address" for an inmate this includes the full committed name, and may include any other legal name, DOC number, housing assignment, and the full name of the correctional facility from which the correspondence is mailed. For a free citizen this includes a reasonable return address as recognized by the United States Postal Service.

(12) "Secretary" is the secretary of the department of corrections or his/her designee(s).

(13) "Sexually explicit materials" consists of any item reasonably deemed to be intended for sexual gratification and which displays, portrays, depicts, or describes:

(a) Nudity, which includes, but is not limited to, exposed/visible (in whole or part, including under or through translucent/thin materials providing intimate physical detail) genitals/genitalia, anus, buttocks and/or female/transgender breast nipple(s);

(b) A sex act which includes, but is not limited to, genital-genital, oral-genital, anal-genital, or oral-anal contact/penetration, genital or anal contact/penetration with an inanimate object, masturbation, and/or bodily excretory behavior;

(c) Sadistic/masochistic abuse, bondage, bestiality, and/or participant who appears to be nonconsenting, dominated, degraded, humiliated, or in a submissive role, and/or a participant who appears to be acting in a forceful, threatening, dominating, or violent manner; and/or

(d) A minor, or a model or cartoon depicting a minor, in a sexually suggestive setting/pose/attire.

(14) "Superintendent" means the superintendent of a correctional facility or his/her designee(s).

[WSR 18-04-010, § 137-48-020, filed 1/25/18, effective 2/25/18. WSR 17-22-045, § 137-48-020, filed 10/25/17, effective 11/27/17. WSR 15-22-003, § 137-48-020, filed 10/21/15, effective 11/21/15. WSR 13-22-045, § 137-48-020, filed 11/1/13, effective 12/2/13. WSR 13-08-073, § 137-48-020, filed 4/2/13, effective 5/3/13. WSR 05-13-004, § 137-48-020, filed 6/2/05, effective 7/2/05. WSR 91-23-103, § 137-48-020, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.09.050, 72.08.103, 72.13.080 and 72.15.040. WSR 84-08-011 (Order 84-04), § 137-48-020, filed 3/26/84. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. WSR 83-20-036 (Order 83-09), § 137-48-020, filed 9/27/83. Formerly WAC 275-96-005.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-030 Inspection of mail. (1) All mail intended for or to be sent by an inmate, excluding legal mail discussed in subsection (3) of this section, may be inspected at any time by the staff designated by the superintendent or his/her designee(s). Mail may be disapproved for receipt or transmittal in accordance with WAC 137-48-040.

(2) No person who inspects, or participates in the inspection, of an inmate's mail, shall disclose the contents except in the cause of his/her official duties.

(3) Mail (incoming or outgoing) which is clearly identified on the outside of the envelope as legal mail, as defined in WAC 137-48-020, shall be inspected only in the presence of the inmate. Legal mail shall not be read but may be inspected in the presence of the inmate to verify legal mail status and that the mail is free of contraband.

(4) Mail containing illegal items or contraband shall be held and disposed of in accordance with the procedures set forth in chapter 137-36 WAC or as otherwise stated in this chapter.

[WSR 17-22-045, § 137-48-030, filed 10/25/17, effective 11/27/17. WSR 05-13-004, § 137-48-030, filed 6/2/05, effective 7/2/05. WSR 91-23-103, § 137-48-030, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. WSR 83-20-036 (Order 83-09), § 137-48-030, filed 9/27/83.]

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WAC 137-48-040 Restriction of incoming and/or outgoing mail. (1) Incoming mail to inmates may be disapproved for receipt for any one of the following reasons:

(a) The mail threatens illegal activity, including but not limited to, threats of physical harm, blackmail or extortion.

(b) The mail threatens the safety and security of the institution, including but not limited to, mail concerning sending contraband escape plans, security devices, or mail that is in a code, a foreign language that cannot be interpreted, does not contain a return address, contains gang symbols, plans for activities in violation of institutional rules or contains information which, if communicated, would create a risk of violence and/or physical harm.

(c) The mail is susceptible to the introduction of contraband, including but not limited to, altered publications, mail with unknown substances on or in it, mail purported to be legal mail that is general correspondence, cash or checks, postage stamps, stickers, photos wherein the nonphoto side is or can be separated, publications not mailed directly from vendor, items not ordered and approved through institution channels, greeting cards that are padded, laminated/layered or musical.

(d) Any mail or publication that is deemed to be a threat to legitimate penological objectives, including but not limited to, sexually explicit materials.

(e) The mail contains inmate to inmate correspondence that has not been approved by the superintendent in compliance with department policy.

(f) The mail contains items identified by the department secretary or designee as not authorized, including but not limited to, multiple copies of documents, mailings soliciting or offering games of chance, clippings from books or magazines.

(g) The mail is from an individual with whom contact is restricted in compliance with the judgment and sentence, a no contact order, department policy.

(2) Outgoing mail from inmates of institutions may be disapproved for mailing for any one of the following reasons:

(a) For any one of the reasons set forth in WAC 137-48-040(1).

(b) The mail is addressed to a minor whose parents or guardian have objected in writing to such correspondence.

(c) An individual or their guardian who previously has been sent obscene or threatening mail by the inmate has complained or has asked that such mail not be received.

(d) The mail solicits money or goods from a person or organization other than the immediate family of the inmate without the permission of the superintendent. The above provisions may not be construed to preclude the purchase of noncontraband goods or payment for such goods which have been approved by the superintendent or his/her designee.

(e) The outside of the mail (envelope or package) does not contain a return address as defined in WAC 137-48-020.

(3) No mail is to be restricted for the reason that it appeals to a particular ethnic, racial, or religious group, or

that it contains critical opinions of departmental policy or departmental employees, unless the mail is also judged to be a threat to legitimate penological objectives.

(4) In addition to those reasons cited in this section, packages sent either to or from an inmate are subject to the following restrictions:

(a) An inmate may receive one gift package not to exceed fifteen pounds in weight on a quarterly basis. Quarterly periods shall consist of December through February, March through May, June through August, and September through November. Rules governing the contents of quarterly packages shall be developed specifically by each institutional superintendent and approved by staff designated by the secretary. The superintendent may allow exceptions from the one gift package limitation and weight limitation provided that appropriate contraband controls are maintained.

(b) The contents of the quarterly package shall be restricted to those items that are otherwise not available to the inmate through the institutional store or other purchasing outlet provided by the institution. A replacement package may be sent during the same quarter for damaged packages that are returned to the sender by the inmate.

(c) Prepaid merchandise approved by the superintendent or designee and ordered by the inmate from any wholesaler or retailer shall not be considered one of the quarterly packages.

(d) Inmates may mail packages containing materials which have been sent to him or her in the institution or gifts consisting of his or her own hobby craft or curio work. Packages must be made and mailed at the inmate's expense.

(e) Newly admitted inmates at any department of corrections operated reception center will not receive packages while assigned to the reception center.

[WSR 05-13-004, § 137-48-040, filed 6/2/05, effective 7/2/05. WSR 91-23-103, § 137-48-040, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.01.090. WSR 86-21-058 (Order 86-06), § 137-48-040, filed 10/14/86. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. WSR 83-20-036 (Order 83-09), § 137-48-040, filed 9/27/83. Formerly WAC 275-96-021 and 275-96-022.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-050 Procedures for restrictions of incoming and/or outgoing mail. (1) If an inmate's incoming or outgoing mail is restricted, written notification will be provided to the inmate by the mailroom staff. This notification shall be provided to the inmate and the sender of the specific publication, letter, or package which has been restricted and the reason for this action. The notice shall contain notification to the inmate that the restriction becomes final within ten days of the initial notice. The superintendent or his/her designee shall review the restriction within the ten-day period of time and shall either uphold the restriction, or allow for the delivery of the mail.

(2) The inmate and sender shall be advised in writing of his/her right to seek review of the decision to restrict his/her mail. The review shall be sought by writing directly to the superintendent/designee within ten calendar days of the initial restriction decision.

(3) Upon receipt of an inmate's and/or sender's appeal, the superintendent or his/her designee shall affirm or reverse the action taken at the institution and shall send a notice of the decision in writing within ten working days from the receipt of the inmate's or sender's written request.

(4) The inmate and the sender may seek a review of the superintendent's/designee's decision by writing directly to the staff designated by the secretary within ten calendar days of the decision.

(5) Upon receipt of the offender's or sender's appeal, the staff designated by the secretary will affirm or reverse the action taken at the facility and will advise the offender or sender in writing of this action within ten calendar days from the receipt of the offender's or sender's written request.

(6) Incarcerated offenders are financially responsible for disposing of their own unauthorized personal property by shipping it to a nonincarcerated person designated by the offender at the offender's expense. The sender should not send stamps or money to the facility or headquarters for this purpose.

(7) When a decision is rendered regarding a particular issue of a publication, that decision shall be binding for all prison facilities. A statewide notification shall be promptly issued from the final reviewer when the decision is rendered.

(8) If a package contains contraband and is subject to criminal prosecution, the entire package will be turned over to the appropriate law enforcement agency. Items of contraband not subject to criminal prosecution will be disposed of in accordance with procedures set forth in departmental and facility regulations as authorized by chapter 137-36 WAC.

[WSR 05-13-004, § 137-48-050, filed 6/2/05, effective 7/2/05. WSR 91-23-103, § 137-48-050, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. WSR 83-20-036 (Order 83-09), § 137-48-050, filed 9/27/83. Formerly WAC 275-96-070.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-060 Mail costs. (1) Except as otherwise stated in this section, mail costs shall be the responsibility of the inmate.

(2) Mail which arrives at the institution with postage due may, at the option of the superintendent, be delivered to the inmate. The institution may pay the postage due in accordance with subsection (3) of this section, or hold the mail for a reasonable period of time so as to allow the inmate to arrange for payment of the postage due. If such arrangements are not made within the time provided, the package/mail may be donated to charity or discarded.

(3) Indigent inmates shall be authorized to receive postage up to the equivalent to the mailing cost of ten standard first class letters per month. This indigent postage provision shall cover regular letters. Indigent offenders will be allowed additional postage for legal mail as identified by the department.

(4) The department shall recoup any expenditures made by the institution for postage due on incoming mail and/or indigent postage for letters, (as identified in subsection (3) of this section) may be recouped by the institution whenever

such indigent inmate has ten dollars or more of disposable income in his/her trust fund account.

[WSR 15-01-011, § 137-48-060, filed 12/4/14, effective 1/4/15. WSR 10-11-057, § 137-48-060, filed 5/13/10, effective 5/17/10. WSR 05-13-004, § 137-48-060, filed 6/2/05, effective 7/2/05. WSR 91-23-103, § 137-48-060, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.09.050, 72.08.103, 72.13.080 and 72.15.040. WSR 84-08-011 (Order 84-04), § 137-48-060, filed 3/26/84. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.-140. WSR 83-20-036 (Order 83-09), § 137-48-060, filed 9/27/83. Formerly WAC 275-96-060.]

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WAC 137-48-070 Mail records. The institution superintendent or his/her designee(s) shall be responsible for the maintenance of a continuous record showing the source and destination of legal mail, packages and items of monetary value mailed by or mailed to an inmate. The secretary shall establish procedures for each institution governing the written mail record.

[WSR 91-23-103, § 137-48-070, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. WSR 83-20-036 (Order 83-09), § 137-48-070, filed 9/27/83.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

WAC 137-48-080 Telephone usage. (1) Telephone facilities shall be provided in appropriate numbers and locations to permit reasonable and equitable access to all inmates, except inmates of the reception center and those inmates in disciplinary segregation.

(2) The superintendent shall promulgate written regulations providing for access of inmates to additional telephone facilities in emergency situations.

(3) The superintendent shall promulgate written regulations outlining the hours of telephone availability, maximum length of calls (not less than five minutes), limitations on telephone use, and provisions for monitoring, recording, and operator-announced calls as provided for in RCW 9.73.095.

[WSR 05-13-004, § 137-48-080, filed 6/2/05, effective 7/2/05. WSR 91-23-103, § 137-48-080, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. WSR 83-20-036 (Order 83-09), § 137-48-080, filed 9/27/83. Formerly WAC 275-96-065.]

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WAC 137-48-090 Implementation. The secretary may adopt rules and regulations implementing this chapter.

[Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. WSR 83-20-036 (Order 83-09), § 137-48-090, filed 9/27/83.]