

CHAPTER 3

MAIL PRIVILEGES

3-001 Applicability: The provisions of this rule shall apply to the Youth Rehabilitation and Treatment Centers and all other juvenile correctional institutions operated by the Department of Health and Human Services.

3-002 Departmental Policy: It is the policy of the Department that youths committed to its custody be allowed access to mail services so long as state and federal laws and regulations governing the use of the mail are not violated, and the security, safety and good order of the facility is not threatened.

3-003 Contraband in the Mail: For the purpose of this rule, the following materials shall be considered contraband and may be confiscated under the provisions of this section. The term contraband, however, shall not be limited to the designated items, but shall include any others that constitute a threat to the safety, security and good order of the facility.

3-003.01 The following objects are considered contraband.

3-003.01A Narcotic, hallucinogenic or other illegally or invalidly possessed drugs.

3-003.01B Plans for escape routes or the manufacture of weapons, incendiary devices, drugs, or alcohol.

3-003.01C Alcoholic beverages.

3-003.01D Weapons of any type.

3-003.01E Perishable goods, unless approved by the Chief Executive Officer of the facility.

3-003.01F Maps of any type related to the institution, its grounds or the geographic area where the institution is located, unless approved by the Chief Executive Officer of the institution.

3-003.01G Any gang-related materials;

3-003.01H Any items which would cause a violation of the Code of Offenses if possessed by an youth.

3-003.02 The following publications or recordings are considered contraband.

3-003.02A Materials which advocate or are likely to incite violent or illegal activity, including materials which advocate or depict violent or illegal sexual activity.

3-003.02B Any printed, published, recorded or photographed materials which are deemed by the Chief Executive Officer to constitute a threat to the safety, security, and good order of the institution.

3-004 Approved Mailing Lists: A youth may write and receive mail from anyone he or she chooses so long as the name of each party on the letter does not appear on the youth's list of disapproved correspondents. Such list and each name thereon will be subject to the approval of the Chief Executive Officer of the institution. The list may be changed or amended at any time through appropriate guidelines established by the Director or designee. Such guidelines shall assure that youth have access to the mails so long as the youths are protected from undue influences that would be harmful to the rehabilitation process.

3-005 Outgoing Mail Procedure:

3-005.01 There shall be no restrictions on the number of letters that may be written by a youth, except in the case of verified violation of the rules and regulations of the Department relating to mail. Youths shall not be allowed to establish credit with sellers of merchandise, or establish business enterprises, without the approval of the Chief Executive Officer of the institution. Youths also shall not be allowed to correspond with youths or adult offenders of other juvenile or adult correctional institutions (or the same correctional institution) without the approval of the Chief Executive Officers of both institutions.

3-005.02 All outgoing mail will be processed by personnel designated by the Chief Executive Officer of the institution. Such mail shall be examined for enclosures and contraband. Outgoing mail may be read only when there is clear and convincing evidence that such mail could constitute a threat to the safety, security, or good order of the institution. No sealed envelopes shall be mailed unless the mail is "privileged" as provided below. All sealed envelopes shall be returned to sender along with a written explanation for the return. Each outgoing letter shall bear the name of the writer and his/her institutional address in the upper left-hand corner on the front of the envelope.

3-005.03 If any outgoing mail is not allowed to leave the facility, it will be returned to the sender, along with a written explanation of the reasons for the action. If contraband is found to be contained in any outgoing mail, such contraband shall be seized and a receipt given to the youth. In the event that seizure of the letter containing contraband is necessary for disciplinary purposes, the youth shall be notified in writing. At the conclusion of any disciplinary action, seized contraband shall be destroyed, retained, or referred to a law enforcement agency, as appropriate. If a youth desires to challenge a seizure of contraband, he or she may do so by employing the grievance procedure.

3-006 Incoming Mail Procedures:

3-006.01 Youths may receive mail from any person or organization they choose except as prohibited in this Rule. There shall be no restrictions on the number of letters that may be received, the length of any letter, or the language in which a letter received may be written, except in the case of any verified violation of the rules and regulations of the Department or state and federal laws and regulations relating to mail. Commercial items received through the mail must be prepaid by the youth. Commercial items not prepaid will be returned to the sender and written notification of such action sent to the youth.

3-006.02 Mail from youths or adult offenders in other correctional institutions will not be permitted unless the Chief Executive Officers of both facilities approve the correspondence. Such mail is presumed to cause a threat to the safety, security, or good order of the institutions, and is presumed to jeopardize the rehabilitative process of the receiver. Appropriate correctional staff at the institution of the sender and the receiver may read mail from one youth to another youth or adult offender.

3-006.03 Personnel designated by the Chief Executive Officer of the institution will process all non-privileged incoming mail. Such mail shall be opened and examined for enclosures and contraband. Incoming mail may be read and confiscated only when there is clear and convincing evidence that such mail constitutes a threat to the security, safety, or good order of the facility.

3-006.04 If any contraband is found to be contained in any incoming mail, such contraband will normally be returned to the sender, along with a copy of the written statement indicating the reason for the return which shall be delivered to the addressee. (Incoming publications are governed by 006.08, below.) A written statement will then be delivered to the addressee with a description of the items removed and an explanation of the reasons for the removal. In the event that the mailing of such contraband violates state or federal law, the contraband and the letter, if necessary, shall be referred to proper law enforcement authorities for appropriate action. In the event that seizure of the letter containing contraband is necessary for prosecution purposes, the sender and the youth shall be so notified in writing. If a youth desires to challenge a seizure of contraband, he or she may do so by employing the grievance procedure. If a sender desires to challenge a seizure of contraband, he or she may do so by contacting the Chief Executive Officer of the institution in writing.

3-006.05 All such mail shall generally be delivered to the addressee no later than twenty-four hours after its receipt at the institution, with the exception of weekends and holidays, or when mail contains suspected contraband. Packages will generally be delivered within forty-eight hours.

3-006.06 All mail sent to a youth must include the name and address of the sender. If cash, checks, or money orders are found in incoming mail and there is no indication of the name and address of the sender, the funds will be placed in the institutional welfare fund. Non-wage funds received through the mail will be posted to a youth's institutional account if receipt of these non-wage funds does not otherwise violate a Departmental rule or regulation. Youths may not receive funds from another youth in the institution, a relative of another youth in the institution, a youth or an adult inmate in another correctional institution, a volunteer, or a person sending money at the request of another youth in the correctional institution. Non-wage funds placed in an institutional account may be spent only for those purposes for which state law allows youth wages to be spent. All funds in a youth's institutional account will be handled in a manner consistent with statutes governing youth wages.

3-006.07 When a youth has been transferred to another correctional institution, his or her First Class mail shall be forwarded to that institution for up to one year after the youth's transfer. First Class mail will be forwarded after release, providing a forwarding address is available. If no forwarding address is available, such mail shall be returned to the sender.

3-006.08 If a publication considered to be contraband (as defined in Paragraph 003.02 of this Rule) is found in a youth's incoming mail, the youth will be given written notice that the publication has been removed and why it is considered to be contraband. The publication will be held by the institution's Chief Executive Officer designee for sixty days in order to enable the youth to exhaust the grievance procedure before the publication is destroyed or returned to the sender at the youth's expense. If the youth asks that the publication be returned to the sender immediately, it will be returned to the sender, at the youth's expense.

3-007 Privileged Mail:

3-007.01 It is the policy of the Department that youths be allowed to send sealed letters to all federal and state officials, the Director, Protection and Safety Division Administrators and the Chief Executive of any juvenile correctional institution of the Department of Health and Human Services; the State Ombudsman or his deputies; judges; the youths designated Juvenile and Family Services Worker (parole officer); and members of local, state, and national bar association. The Chief Executive Officer of the institution from which such mail originates may choose to attach to any such outgoing mail, a letter disclaiming any administrative responsibility for the nature or contents of such mail.

3-007.02 Any communication from a member of the bar, or from one of the persons referred to above may be opened only in the presence of the youth-addressee. At the time of opening, such mail shall be examined for contraband, but shall not be read unless there is clear and convincing evidence that such mail constitutes a threat to the safety, security, or good order of the facility. In any case, the name or firm affiliation of any sender must appear in commercial printing on the envelope before such mail shall be accorded privileged status. Any sender using envelopes which do not contain commercially printed names or firm affiliation must acquire the prior written approval of the Chief Executive Officer of the institution. Without such approval, such mail marked privileged will be handled as standard, incoming mail.