

1.2.E.1 Inmate Commissary

I Policy Index:



Date Signed: 12/11/2018
Distribution: Public
Replaces Policy: N/A
Supersedes Policy Dated: 11/27/2017
Affected Units: All Institutions
Effective Date: 12/11/2018
Scheduled Revision Date: October 2019
Revision Number: 19
Office of Primary Responsibility: DOC Administration

II Policy:

Department of Corrections (DOC) institutions will arrange for commissary services to be offered to qualifying inmates to purchase allowable property items for personal use.

III Definitions:

Indigent Commissary:

Limited and controlled commissary services for inmates with no funds or limited funds, and no immediate source of income or source of income in the foreseeable future.

IV Procedures:

1. Commissary Services:

- A. The DOC shall establish commissary services for inmates through an approved commissary vendor, in accordance with the standards set forth within this policy. Commissary services for individual inmates are considered a privilege, not an implied right. Neither this policy nor its application may be the basis for establishing a constitutionally protected liberty, property or due process interest.
1. Inmates may make withdrawals from their available spend subaccount funds to purchase commissary, in accordance with DOC policy 1.1.B.2 [Inmate Accounts and Financial Responsibility](#).
 2. Inmates are not allowed to exceed the \$40 per week commissary sales limit.
 - a. Inmates may purchase approved personal property items listed on [Attachment 3](#) of DOC policy 1.1.B.2 [Inmate Accounts and Financial Responsibility](#), as available through the commissary vendor and subject to limitations set by the DOC.
- B. In addition to the standards established by DOC policy, the Warden at each institution shall develop and maintain specific procedures directing the operation of commissary services unique to institution(s) under his/her authority.

1. This will include providing notice to inmates of the commissary schedule permitting eligible inmates to make commissary purchases.
 2. Inmates who miss their scheduled commissary time for reasons beyond the control of the DOC (e.g. inter-facility transfers, appointments, programming, suspended commissary privileges, temporary absence-out to court/hospital etc.) are not entitled to a second opportunity to purchase commissary if past date which the commissary order is due.
- C. Each facility will publish a list of personal property items/commissary that may be purchased by inmates through the commissary system. The list shall include the current prices for each available commissary item.
- D. Inmates must have sufficient funds in their spend account at the time the funds are withdrawn to purchase the commissary item, unless the inmate has been approved for indigent commissary.

2. Indigent Commissary Services:

- A. Inmates may request and receive indigent commissary a maximum of once every thirty (30) days, provided they meet all of the established criteria at the time of the request.
- B. Inmates are eligible for indigent commissary if their spend funds are less than \$1.00; they have no commissary purchases in the thirty days last calendar month, no deposits in the last calendar month, no funds in their specialty account, and have no verified outside source from which they can obtain funds (See DOC policy 1.1.B.2 *Inmate Accounts and Financial Responsibility*).
1. Inmates must send a request for indigent commissary to their unit team.
 2. Unit staff and inmate banking staff will confirm the inmate is eligible for indigent commissary.
 2. Inmates may only order and receive items identified as "indigent items". Health Services staff may issue a medical order permitting an inmate to order and receive specified personal hygiene items or medical items, e.g. medicated shampoo, foot powder, available through commissary.
 3. Inmates are not required to accept all indigent items on the approved list and will only be charged for the items received.
 4. Each Warden may establish a maximum dollar value for indigent purchases during the thirty (30) day period.
- C. Indigent inmates will have their accounts debited with a credit obligation for the cost of any items they receive. This does not imply permission for an inmate to overdraw his/her commissary spend account at will.

3. Loss of Commissary Privileges:

- A. An inmate's commissary privileges may be temporarily suspended through a sanction issued for committing an Offense in Custody, in accordance with DOC policy 1.3.C.2 *Inmate Discipline System* and pursuant to SDCL § 24-2-9(4) and SDCL § 24-15A-4(3).
- B. An inmate's commissary privileges may be temporarily suspended, limited or restricted for the safety of the inmate, i.e. mental health watch, hunger strike and placement on dry cell status,

disciplinary house and administrative detention. Limited items may be made available for the inmate to receive through commissary, as approved by staff or set by the unit plan.

C. Inmates whose commissary privileges are temporarily suspended are permitted to purchase personal hygiene items and legal materials identified on the indigent commissary list only. The inmate must have funds in their account to cover the cost of the item ordered.

D.

V Related Directives:

SDCL §§ [24-2-9\(4\)](#) and [24-15A-4\(3\)](#).

DOC policy 1.1.B.2 – [Inmate Accounts and Financial Responsibility](#)

DOC policy 1.3.C.2 -- [Inmate Discipline System](#)

VI Revision Log:

November 2003: New policy.

October 2004: **Clarified** information on tracking account balances and missed commissary under the section on Commissary Services. **Reworded** the language on maximum indigent purchases **Added** reference to DOC policy 1.3.C.11.

December 2005: **Clarified** indigent commissary services for inmates on loss of commissary status.

October 2006: **Added** language about inmates also having sufficient funds in their savings account for commissary purchases.

November 2007: No changes made.

October 2008: **Revised** formatting of policy in accordance with DOC policy 1.1.A.2. **Replaced** “commissary spending account” to “spend account” throughout policy **Clarified** SDCL sections within section V to be consistent with reference in policy.

October 2009: **Added** hyperlinks.

October 2010: **Revised** formatting of Section I. **Added** new ss (E of Commissary Services). **Deleted** reference to the inmate’s spending account being debited for the cost of indigent items within ss (C of Loss of Commissary Privileges).

November 2011: **Added** 2. to Section 1 A. **Added** “deposit on lost/damaged items” and “Staff approval is required in some cases before an inmate may overdraw their spend account” to Section 1 A. 3. **Deleted** “expected to” and **Replaced** with “responsible for” and **Added** “account balances and” to Section 1 A. 3 **Added** c. and d. to Section 1 A. **Deleted** “and will provide a related” and **Replaced** with “which will include a current list of” to Section 1 C. **Added** 1. to Section 1 E.

November 2012: **Reviewed with No changes.**

February 2013: **Added** “subaccount to purchase commissary” to Section 1 A. 1. **Deleted** “this is subject to the \$140 balance/deposit limit per twenty-eight day period” in Section 1 A. 2. **Added** a. to Section 1 A. 2. **Deleted** “run negative as a result of internal disciplinary fines, restitution owed to the DOC, deposit on lost/damaged items, indigent commissary, legal copies or medical co-pay” and **Replaced** with “require a credit obligation to be processed as a result of indigent commissary” in Section 1 A. 3. **Deleted** a. “Inmates are responsible for managing their account balances and commissary purchases to accommodate other weekly costs debited from their spend account so they do not exceed the \$35.00 weekly limit.” in Section 1 A. 3. **Deleted** “Transactions requiring the use of a commissary slip include, but are not limited to: postage, certified letters, fines as a result of internal disciplinary sanctions, restitution, deposits required for “loaner” property, books, fees for copies of records requested by the inmate, etc” in Section 1 A. 3. **Deleted** “Inmates may transfer money from their spend account to their phone account within the \$35 per week spending limit. Transfers must be in \$5 increments.” in Section 1 A. 3. **Added** “eligible” to Section 1 B. 1. **Deleted** “spend” and **Deleted** “balance is negative” and **Replaced** with “has a credit obligation resulting from a loan created from overdrawing their spend account” in Section 1 E. **Deleted** 1. Inmates may transfer spend account funds to their savings account and savings account funds to their spend account only after certain

requirements have been met” in Section 1 E. **Deleted** “twenty-eight (28) consecutive days” and **Replaced** with “calendar month” in Section 2 B. and Section 2 B. 4.

August 2013: **Added** definition of “Calendar Month”. **Added** “in their spend account” to definition of “Indigent Commissary” **Added** “commissary sales” to Section 1 A. 1. **Added** “not” and **Deleted** “with written permission from unit staff” and **Deleted** “spending” and **Replaced** with “commissary sales” in Section 1 A. 2. **Deleted** “29 consecutive days” and **Replaced** with “calendar month in Section 2 B and B.4 and Section 3 B.

October 2014: **Reviewed** with no changes.

October 2015: **Reviewed** with no changes.

January 2016: **Deleted** “they have no purchases from their spend subaccount for the past calendar month and they currently have no funds in their spend subaccount at the time the request of indigent commissary is” and **Replaced** with “their spend funds are less than \$1.00; they have not commissary purchases in the last calendar month and no deposits in the last calendar month” in Section 2 B.

May 2016: **Deleted** “Inmates identified as indigent will be permitted limited and controlled access to select commissary items” from the policy statement. **Deleted** “in their spend subaccount” and **Added** “or in the immediate future” from the definition of Indigent. **Deleted** “35” and **Replaced** with “40” in Section 1 A. 2. **Added** “subject to limitations set by the DOC” in Section 1 A. 2. a. **Deleted** E. in Section 1. **Deleted** “calendar month” and **Replaced** with “thirty (30) days” in Section 2 A. and C. **Added** “and no funds in their specialty account and no verified outside source from which they can obtain funds” in Section 2 B. **Added** new 2. to Section 2 B. **Added** B. to Section 3.

October 2017: **Reviewed** with no changes.

October 2018: **Added** “Neither this policy nor its application may be the basis for establishing a constitutionally protected liberty, property or due process interest” in Section 1 A. **Added** “their available” in Section 1 A. 1. **Added** “if past date which the commissary order is due” in Section 1 B. 2. **Added** “at the time the funds are withdrawn” in Section 1 D. **Deleted** “last calendar month” and **Replaced** with “thirty days” in Section 2 B. **Added** “The inmate must have funds in their account to cover the cost of the item ordered” in Section 3 C.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

12/11/2018

Date