


SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.3.C.8	PAGE NUMBER 1 OF 5
		DISTRIBUTION:	Public
		SUBJECT:	Publications
RELATED STANDARDS:	ACA: 5-ACI-7D-04	EFFECTIVE DATE: November 01, 2022	
		SUPERSESION: 03/19/2021	
DESCRIPTION: Rules and Discipline	REVIEW MONTH: October	<i>Kellie Wasko</i> KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

The policy of the South Dakota Department of Corrections (DOC) to balance the offender's rights to receive, read and view publications with the rights of the DOC employees to work in an environment free of hostility and sexual harassment.

II. PURPOSE

The purpose of this policy is to establish criteria for allowing publications within a correctional facility and to *provide guidelines governing access to publications (ACA 5-ACI-7D-04)*.

III. DEFINITIONS

Commercially Produced Photos:

Photos or other images that are mass produced and widely available for sale by any company or entity and are intended for widespread view, sale, and distribution.

Photos:

Image or images of an individual, place, object or a drawing that is printed on a single page of paper or other material.

Publication:

Any information or material in the form of a book, booklet, pamphlet, flyer, magazine, periodical, newsletter, photograph or other pictorial depiction of similar document, including stationery and greeting cards, writing, drawing or cartoon created by an individual, organization, company or corporation which is distributed or made available through any means or media.

Sexually Explicit Content:

Content that displays the following: bare (or transparently covered) female nipple and/or areola, bare (or transparently covered) male or female genitalia, or the fully exposed, uncovered anus, or which contains any display, actual or simulated of any of the following activities (whether nude or clothed).

1. Sexual intercourse or sodomy, including genital-genital, oral genital, anal-genital, and anal-oral contact, whether between persons of the same or differing gender or by animate or inanimate objects.
2. Masturbation
3. Bestiality
4. Necrophilia
5. Sadistic or masochistic practices, or
6. Discharge of bodily fluids

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IV PROCEDURES

1. General Principles:

- A. All DOC facilities will coordinate publication reviews to ensure consistency of decisions regarding publications. Implementation Adjustments for this policy are prohibited.
- B. Publications (including incoming/outgoing mail and other materials) that are in violation of this policy and are found in an offender's cell, possession or property will be deemed contraband and subject to disposition for contraband.

2. Purchase, Possession and/or Attempted Possession of Sexually Explicit Material by a Sex Offender:

- A. Purchase, possession, attempted possession or manufacturing of sexually explicit content, erotica, or materials containing nudity by a sex offender is a violation of the Sex Offender Management Program (SOMP).

3. Mail Room Review:

- A. The mailrooms at each facility will make an initial decision on all incoming publications, commercially produced photos, personal letters, and personal photos, including those sent electronically to the offender.
 1. Commercially produced photos will be limited to not more than twelve (12) photos. Orders received that contain more than twelve (12) commercially produced photos will be rejected as contraband. This restriction applies to ALL commercially produced photos even if they are being sent in by family members.
 2. Personal correspondence containing more than twelve (12) family/non-commercially produced photos are to be reviewed under the standards for personal letters and personal photos.
 3. No more than two (2) copies of a photo, commercial or non-commercial, can be mailed at a time.
- B. Publications meeting the following criteria will be held by the mailroom and forwarded to the facility Warden for final decision:
 1. Publications that depict or describe the design or manufacture of firearms, explosives, or other weapons or destructive devices, or controlled substances or intoxicants, or which provide detailed instructions regarding the illegal use of such items.
 2. Publications that describe sexually explicit content and promote illegal sexual activity (rape, incest, etc.).
 3. Publications that by depiction or description, advocate violence, hatred, abuse, or vengeance against any individual or group based upon his/her race, religion, nationality, sex, sexual orientation, disability, age or ethnicity, or that appear more likely than not to provoke or to precipitate a violent confrontation between the recipient and any other person.
 4. Publications that by depiction or description support the illegal activities of a security threat group, contrary to the security interests of the facility. Sign language or style of dress alone, in the absence of other material that supports, incites, promotes, encourages, or advocates any type of illegal security threat group activity will not be the cause of rejection.
 5. Publications which pose a potential threat to the safety and security of the offender population or employees contract workers, or volunteers by advocating facility disruption or noncompliance with prison rules or regulations.
- C. Personal letters and personal photos meeting the following criteria will be held by the mailroom and forwarded to the warden or Associate Warden (AW) to initiate an Administrative Review:
 1. Personal letters and photos which describe illegal sexual conduct (e.g., rape, molestation) or depict sexually explicit content (as defined herein).

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- D. Personal letters and photos which may present a threat to facility safety and security will be rejected in accordance with POC policy 1.5.D.3 *Offender Correspondence* (e.g., security threat group, weapons, violence). If an offender disagrees with a decision that a particular item meets the policy definition of sexually explicit content, the offender may appeal the decision through the grievance process.
- E. A publication may not be rejected solely because its content is religious.
- F. A publication, personal letters, and/or photos may not be rejected solely because of its philosophical, political, or social views, or because its content is unpopular, repugnant, or critical of the DOC or other government authority.
- G. A publication may be allowed which would otherwise meet the definition of nudity or sexually explicit content if, the publication has literary, educational, scientific, artistic, religious, or historic value. An example of publications which should justify an exception for having literary, educational, scientific, artistic, religious, or historic value are publications with a primary purpose that is not the sexual arousal of its reader/viewer.
 - 1. If a publication satisfies an exception for literary, artistic, educational, scientific, religious, or historic value, it may be denied or rejected at the discretion of the Director of Prisons if the publication poses a risk to the safety or security efforts of the DOC.

4. Administrative Review

- A. Within fourteen (14) days of receipt of the facility mail room review and decision, the Warden or AW will:
 - 1. Review the recommendation, the publication, and any statements received.
 - 2. Determine whether to permit or reject the publication, personal letter, or photo.
 - 3. Complete the *Director of Prisons' Publication Appeal Statement and Decision* (see Attachment 2).
 - 4. The Director of Prisons will make a final departmental decision to the appeal and the offender will receive the *Director of Prisons Final Departmental Decision* (see Attachment 3).
- B. Appeals must be allowed in all of the following cases:
 - 1. Libraries must be permitted to appeal decisions regarding library materials.
 - 2. Appeals must be permitted whenever the material involves political or religious speech.
 - 3. Appeals must be permitted if the content may qualify for literary, artistic, educational, scientific, or historic value.
 - 4. Appeals must be permitted any time that the Warden or AW is uncertain whether the publication strictly meets the definition of sexually explicit content contained herein.
 - 5. The decision of the Warden or AW completes the administrative review process and is the final authority on decisions related to personal letters and photos. These items will not be eligible for appeal to director of prisons.
 - a. The Warden or AW will indicate the decision and reasons for the decision on a *Mailroom Publication Personal Letter/Photo Decision Form* (See Attachment 1).

5. Incoming Correspondence and Viewing Rooms:

- A. Any material containing nudity and/or sexually explicit conduct that is not featured in the material, will be forwarded to the facility's warden or AW to determine whether it will be forwarded to the established viewing room, logged, and placed into secured storage.
 - 1. Digital images containing nudity and/or sexually explicit conduct will not be permitted.
 - 2. The offender will be notified that he/she has received such correspondence.
 - 3. Such material is permitted only in the designated viewing rooms. Offenders are prohibited from possessing such materials outside of the designated viewing rooms.
 - a. Offenders found possessing such material in violation of this policy may be subject to disciplinary action.

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4. Offenders are allowed no more than four (4) published materials, and ten (10) photographs or loose-leaf paper items in their viewing room file.
- B. Each facility will designate an area that will be used for the viewing of the materials described herein.
1. Each facility will establish guidelines and procedures regarding the storage of said materials as well as offender access to the designated viewing area.
 2. Offenders will receive a *Viewing Room Material Notice – Offender* (see Attachment 4) for notification of correspondence material that has been forwarded to the viewing room.

6. Viewing of Material

- A. Offenders will be required to kite their assigned facility personnel to sign up for a viewing time.
- B. Upon arrival at the viewing room offenders must sign in on the *Viewing Room Sign in Sheet* Form (see Attachment 5) at which time staff will provide the offender's file for review.
- C. Staff will verify the contents of offender's file to ensure that the number of materials does not exceed the number of materials allowed.
- D. Material may only be checked out to the offender on the *Material Check In-Out Form* (see Attachment 6) and be viewed in the viewing room and may not be removed for any reason.
- E. Material cannot be shown to other offenders or shared in any manner.
- F. Any material that is altered, torn, or damaged will be considered contraband and handled in accordance with policy.
- G. Materials must be returned to staff at the end of the viewing session and signed back in on the *Material Check In-Out Form* (see Attachment 6).
- H. Each occupied viewing room will be monitored by staff at all times.
- I. Failure to follow viewing room rules will result in a thirty (30) day suspension of viewing room privileges.

7. Disposal of Material

- A. Offenders may choose to have items which are within the allowable property limits purged from their files at any time.
- B. Material in excess of the amount allowed is considered contraband and will be purged on a first in-first out basis.
 1. An offender will be notified of items purged and will have thirty (30) days to either:
 - a. Provide an addressed envelope with the appropriate postage to the Cultural Activities Coordinator (CAC) in order to have material mailed out; or,
 - b. Request the materials be destroyed.
- C. Staff will dispose of the materials exceeding the thirty (30) days, or designated to be destroyed, by placing in the unit's contraband barrel.
- D. Offenders who refuse to purge materials are subject to disciplinary action.

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- E. If an offender leaves DOC custody (parole, SS rel., flats, transfers, etc.) and does not take the materials with him/her, the items will be discarded after thirty (30) days.

V. RESPONSIBILITY

The Director of Prisons is responsible for the annual review and maintenance of this policy.

VI. AUTHORITY

None.

VII. HISTORY

October 2022
March 2021
October 2020
May 2016
May 2015
May 2014
May 2013
June 2012
June 2011
June 2010
June 2009

ATTACHMENTS

 (Published in PolicyTech unless otherwise noted) (*Indicates the document opens externally).

1. [1.3.C.8 - ATT #1 Mail Room Publication Personal Letter/Photo Decision](#) *
2. [1.3.C.8 - ATT #2 Director of Prisons Publication Appeal Statement and Decision](#)*
3. [1.3.C.8 - ATT #3 Director of Prisons Final Departmental Decision](#) *
4. [1.3.C.8 - ATT #4 Viewing Room Material Notice - Offender](#) *
5. [1.3.C.8 - ATT #5 Viewing Room Sign In Sheet](#) *
6. [1.3.C.8 - ATT #6 Material Check In-Out Form](#)*
7. DOC Policy Implementation / Adjustments (*not published in PolicyTech*)

Mail Room Publication Personal Letter/Photo Decision

Offender Name: _____

DOC#: _____

Material reviewed:

Personal Letter

Include sender's name and number of pages

Personal Photos

Include sender's name and number of photos

Provide a detailed explanation as to what material was originally reviewed, why the material, or any portion thereof is being reviewed, and the basis for the decision.

Associate Warden

Printed Name & Signature

Date

DISPOSITION FOLLOWING EVALUATION OF MATERIALS:

Rejected

Allowed

Material has been confiscated as contraband pursuant to DOC policy 1.3.C.8. This response serves to exhaust all administrative remedies.

Warden

Printed Name & Signature

Date

Date Served to Offender

Served by: DOC Employee(s) Printed Name/Initials

Offender Signature/Printed Name

Warden publication review decisions may not be grieved.

Director of Prisons Publication Appeal Statement and Decision

Offender Name / DOC #: _____ Facility: _____

OR

Facility Appealing Decision: _____

Publication Title, Issue Date, and Number: _____

What is the basis of your appeal (Be specific and brief):

Warden or Associate Warden review: Initials / Signature:

Printed Name: _____ Date: _____

(Attach original rejected publication)

Director of Prisons' / Designee Response:

The Director of Prisons' / Designee has reviewed this appeal and determined that the publication will be:

Allowed

Rejected

This response serves to exhaust all administrative remedies.

Signature of Director of Prisons' / Designee

Printed Name of Director of Prisons' / Designee

Date Served:

Served by: DOC Employee(s) Printed Name/Initials

Appellant Signature/Printed Name

Director of Prisons Final Departmental Decision

The publication: _____ was reviewed by the Director of Prisons/Designee
on: _____

Pursuant to DOC Policy 1.3.C.8 this publication contains one of the following:

Material that describes or depicts the design or manufacture of firearms, explosives, or other weapons or destructive devices, or controlled substances or intoxicants, or which provide detailed instructions regarding the illegal use of such items.

Material that by depiction or description advocates violence, hatred, or vengeance against any individual or group based upon their race, religion, nationality, sex, or ethnicity or that appears more likely than not to provoke or to precipitate a violent confrontation between the recipient and any other person.

Material that by depiction or description supports the illegal activities of a security threat group contrary to the security interests of the facility or the individual rehabilitative goals of the recipient. Sign language or style of dress alone, in the absence of other material that supports, incites, promotes, encourages, or advocates any type of illegal gang activity, will not be the cause of rejection.

Material is permitted due to literary, educational, scientific, artistic, or historic value.

Material which poses a potential threat to the safety and security of the offender population or DOC employees, contract workers, and volunteers by advocating facility disruption or noncompliance with prison rules or regulations.

DISPOSITION FOLLOWING EVALUATION OF PUBLICATION:

Allowed

Rejected

Signature of Director of Prisons'/ Designee

Date of Decision

Appellant Signature/Printed Name

Cc: Warden
Associate Warden
Facility Mailrooms

VIEWING ROOM MATERIAL NOTICE - OFFENDER

To: _____
Offender's Last Name First Name DOC#

You have received correspondence containing nudity and/or sexually explicit material deemed appropriate for viewing pursuant to DOC policy 1.5.D.3 *Offender Correspondence*, and DOC policy 1.3.C.8 *Publications*. This correspondence material has been forwarded to your housing unit's viewing room.

- No material has been purged from your viewing room file.
- Viewing room material with the oldest date logged has been purged from your file as the number of items exceeded limits set forth in DOC policy 1.3.C.8 *Publications*. Pursuant to SDDOC Policy 1.5.D.3, *Offender Correspondence*, you have thirty (30) days from the date of this notice to send out excess material. To do so, notify the Cultural Affairs Coordinator. Failure to do so will result in the destruction of the excess material.

To view materials, follow the procedure and rules set forth and outlined in DOC policy 1.3.C.8 *Publications*. It is your responsibility to read, understand and follow all facility rules. Failure to do so will result in disciplinary action pursuant to DOC policy 1.3.C.2 *Offender Discipline System*.

- Upon receipt of this notice, kite your unit control pod for a viewing time.
- Based on availability and room limitations, selected offenders will be allowed, at a maximum, one 20 minute session per day to visit the viewing room.
- Spots will be limited, based on demand, and will be filled on a first come, first served basis.
- Sign in with staff upon arrival at the viewing room, at which time staff will provide your file for review.
- Verify the contents of your file with staff. Contents are subject to limitations set forth in DOC policy 1.3.C.8 *Publications* and must be in compliance prior to viewing.
- Material in excess of the limitations is considered contraband and will be removed to be mailed or destroyed.
- Materials may only be viewed in the viewing room and may not be removed by offenders for any reason.
- Materials cannot be shown to other offenders or shared in any manner.
- Materials altered, torn, or damaged are considered contraband.
- Materials will be returned to staff at the end of the viewing session.
- Failure to follow viewing room rules will result in a thirty (30) day suspension of viewing room privileges.

Staff Member's Name Signature Date

Viewing Room Sign In Sheet

Offender Name: _____ DOC #: _____

Date	Time In	Offender Signature	Time Out	Staff Signature

Material Check In/Out Form

Offender Name: _____ DOC #: _____

Books

Title	Date Received	Staff Signature	Date Removed	Offender Signature

Magazines

Title	Date Received	Staff Signature	Date Removed	Offender Signature

Pictures/Loose Leaf Paper

Title	Date Received	Staff Signature	Date Removed	Offender Signature

Notice to Offender: By signing you agree you have requested the DOC destroy the noted material.