

1.2.E.1 Inmate Commissary

I Policy Index:



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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 for inmates with no funds and no immediate source of income at the time of purchase or in the immediately 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 are considered a privilege. Neither this policy nor its application may be the basis for establishing a constitutionally protected liberty, property or due process interest in any inmate.
1. Inmates may make withdrawals from their spend subaccount funds to purchase commissary, in accordance with DOC policy 1.1.B.2 *Inmate Accounts and Financial Responsibility*.
 - a. Inmates may purchase approved personal property items, as listed on Attachment 3 of DOC policy 1.1.B.2 *Inmate Accounts and Financial Responsibility*.
 - b. The list of approved property items shall be maintained by the commissary vendor, subject to limitations and prior approval by the Warden or Deputy Warden.
 - c. Property purchases must be from the inmate's savings subaccount.
- 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 at each institution under his/her authority.

1. Procedures will include providing notice to inmates of the commissary schedule and permitting eligible inmates to make commissary purchases.
 2. Inmates missing the deadline to submit a commissary order for reasons other than those controlled by DOC (e.g. inter-facility transfer, scheduled appointments, suspended commissary privileges, temporary absence-out to court/hospital etc.) are not entitled to a second opportunity to purchase commissary for that week.
 3. Each facility will maintain a list of personal property and commissary items available for purchase. The list shall include the current price for each item.
 4. Inmates may only purchase items which they are approved for at the facility or unit where they are housed, or for which they have special permission, i.e. through a medical order.
- C. Inmates must have sufficient funds in their account at the time the funds are withdrawn.

2. Indigent Commissary Services:

- A. Inmates may receive indigent commissary a maximum of once every thirty (30) days. Eligibility is determined at the time which the request for indigent commissary is received.
- B. Inmates are eligible for indigent commissary if:
1. Spending balance at the time of the request is (\$0.00);
 2. No commissary purchases within the current calendar month;
 3. No spend account deposits in the last calendar month;
 4. A zero balance in the specialty account (for exempt funds only); and
 5. Not expected to receive spend account funds within the week of the indigent commissary request or week which the property is received.
- C. Inmates must send requests for indigent commissary to unit staff.
1. Unit staff and inmate banking staff will confirm the inmate is eligible for indigent commissary.
 2. Inmates may only order and receive approved indigent commissary items. Items ordered may not exceed the approved quantity.
 3. Health Services or Behavioral Health staff may issue a medical order permitting an indigent inmate to order and receive specified items.
 3. Inmates are not required to accept/or order all indigent items on the approved list and will only be charged for the items ordered.
 4. Each Warden may establish a maximum dollar value for indigent purchases during the calendar month.
- D. Indigent inmates will have a credit obligation created for the cost of all indigent items ordered. Creation of a credit obligation 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 sanctions 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. Inmate commissary privileges may be temporarily suspended or limited for safety or security reasons.
- C. Individual inmate commissary privileges may be temporarily suspended, limited or restricted for placement on mental health watch, hunger strike, and those housed in a dry cell or restricted housing.
- D. Inmates with temporarily suspended commissary privileges are permitted to purchase personal hygiene items and legal materials identified on the indigent commissary.

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:

Removed revisions from November 2003 to October 2009.

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.

July 2020: **Added** 4. to Section 1 B. **Deleted** \$1 and **Replaced** with \$0 in Section 2 B. 1. **Added** “or Behavioral Health staff” to Section 2 C. 3. **Added** B. to Section 3.

Mike Leidholt (original signature on file)

Mike Leidholt, Secretary of Corrections

07/22/2020

Date