

1.3.C.4 Inmate Personal Property

I Policy Index:



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Office of Primary Responsibility: DOC Administration

II Policy:

Inmates may be allowed to possess some items of personal property; however, inmate personal property will be limited for safety reasons, health and hygiene concerns and to control contraband.

III Definitions:

Personal Property:

Personal property includes all property owned by or in possession of an inmate that is not issued to the inmate by the Department of Corrections. This includes items an inmate is permitted to possess pursuant to applicable institutional operations memoranda and/or directives from the Warden or his/her designee. Inmate personal property is a privilege earned by each inmate and references to personal property do not establish an ownership interest in the property superior to the policies, rules and procedures of the institution. Failure to abide by the policies, rules and procedures of the institution may result in a loss of the privilege of possessing or accessing certain items of personal property.

Contraband:

An item that an inmate is not authorized to have or is prohibited by law or policy. Approved items may be contraband if altered, possessed in higher quantity than authorized, used in ways not intended or approved, or obtained through an unapproved source.

IV Procedure(s):

1. Allowable Inmate Personal Property:

- A. Consistent with the mission of the institution, each Warden or his/her designee will identify in writing the personal property which may be retained by inmates at the institution. A comprehensive list shall be maintained of the type and amount of authorized personal property that may be retained and stored by inmates housed at the institution.
 1. Limitations on the source(s) inmates may access to obtain the items of personal property such as craft supplies, religious and cultural items will be set by each institution.

2. Each institution will establish numerical and space limits for allowable personal property. The amount of space available to each inmate to store personal property may be adjusted in accordance with number of inmates assigned to the institution.
 3. Inmates may not accumulate paper materials (including legal materials and documents) to the point where the materials become a fire, sanitation, security or housekeeping hazard.
 4. Inmate personal property must fit in the assigned storage space, or be stored in approved storage containers, unless otherwise exempted by the Warden or his/her designee. Inmates are responsible for properly securing personal property.
 5. All unauthorized personal property in an inmate's possession at the time they are admitted to a DOC institution will be mailed at the expense of the inmate to a destination of the inmate's choice, donated to charity, or destroyed. If an inmate refuses to provide a mailing address, the property may be disposed of through approved methods, including destruction of the property.
 6. Allowable personal property may vary depending on an inmate's housing placement.
 7. An inmate is not allowed to possess personal property (including legal documents or legal materials) belonging to another inmate.
 8. Religious items used in the practice of an inmate's chosen religion not posing a threat to the safe, secure and orderly operation of the institution, may be authorized by the Cultural Coordinator or staff member of similar rank and authority.
 9. Each inmate is responsible for all personal property on his/her person, in his/her living quarters, in his/her work area or in any storage space assigned to him/her.
- B. DOC staff is responsible for enforcing inmate compliance with property allowances established by the institution.
1. Searches of an inmate's personal property will be conducted to ensure compliance with personal property restrictions, consistent with DOC policy 1.3.A.5 [Searches – Adult Institutions](#)).
 2. Possession of contraband by an inmate may result in the inmate being subject to disciplinary action. Contraband found in the inmate's possession will be confiscated, properly identified and processed in accordance to facility procedures (See [Inmate Living Guide](#), DOC policy 1.3.C.2 [Inmate Discipline System](#) and SDCL § 24-2-26).
 - a. Staff will dispose of items seized as contraband in accordance with acceptable institutional procedures.
 - b. Seized state property, if not altered, will be returned to the state. Seized state property that has been altered may be destroyed at the discretion of the Warden or his/her designee.
 3. No alcoholic beverage, marijuana, or weapon, as defined in SDCL § 22-1-2(10), may be possessed by any inmate. No prescription or nonprescription drugs, controlled substance, as defined by Chapter 34-20B or any article of indulgence may be possessed by an inmate except by order of a physician, PA or NP. Violation constitutes a felony.

- a. All such substances/materials found in possession of an inmate and seized by staff will be processed as evidence and delivered to law enforcement for criminal prosecution.
 4. Damaged or altered inmate personal property is subject to confiscation and will be sent out of the institution at the inmate's expense, properly discarded or destroyed.
 - a. Replacement cost for lost, damaged, modified or altered state property issued to an inmate may be charged to the inmate in accordance with DOC policy 1.3.C.2 *Inmate Discipline System*.
 5. An inmate is not entitled to reimbursement or compensation for personal property that has been lost, stolen, confiscated, sent out or properly discarded/destroyed by staff.
- C. Inmates may obtain personal property through the following methods:
1. Authorized property retained by the inmate upon admission to the institution.
 2. Property issued to the inmate while in custody.
 3. Property purchased by the inmate through the institutional commissary system.
 4. Authorized property approved by staff to be mailed to the inmate or otherwise received.
- D. Inmate personal property may not be transferred between inmates without the approval of the Warden or his/her designee.
- E. Inmates may not trade, loan, barter or sell any item of personal property to staff, a visitor, contractor, volunteer or other inmate.

2. Forfeiture of Property:

- A. In addition to forfeiture of specified personal property as a result of a disciplinary sanction (see DOC policy 1.3.C.2 *Inmate Discipline System* and SDCL § 24-2-26), inmates may be required to forfeit specified personal property items in accordance with DOC policy 1.3.C.4 *Forfeiture of Inmate Personal Property*. Inmates who do not currently possess the personal property item specified for forfeiture will not be allowed to acquire the specified property item until the expiration of the forfeiture time (sanction has expired).
1. If an inmate is seeking a formal Administrative Remedy regarding an incident that lead to the forfeiture of the personal property item(s), staff will pack the specified personal property item(s) in an approved storage container and secure the property until disposition of the pending Administrative Remedy (See DOC 1.3.E.4 *Administrative Remedy for Inmates*).
 2. Inmates must make arrangements with the institution's property office to send out or destroy/dispose of forfeited property.
 - a. Inmates are responsible for all costs associated with the disposal of forfeited personal property.
 3. Staff will not store forfeited property unless the property is evidence in a pending investigation.

3. Recording and Tracking Inmate Personal Property:

- A. Each institution will develop procedures to record and track inmate personal property in the Comprehensive Offender Management System (COMS).
 - 1. The recording of inmate personal property does not create or infer liability of the DOC for the inmate's personal property.
 - 2. Any inmate personal property reported to be lost, stolen or missing will be listed on the inmate's property record as such. The inmate may be allowed to purchase a replacement as authorized by staff.
 - 3. If the lost, stolen or missing personal property item is located and can be returned to the inmate, the inmate will be required to send out or destroy any property item(s) in excess of what is allowed by the personal property list maintained by the institution.
- B. Inmates possessing personal property are required to sign the [Admission Document](#) (See [Attachment 1](#)).
 - 1. Inmates may be compensated for lost or damaged personal property if the loss or damage is determined to be caused by a negligent act or omission by a staff member.
 - 2. The DOC cannot ensure the safety of inmate personal property from loss, theft or damage resulting from acts or omissions by the inmate or other inmates.
 - 3. Personal property in an inmate's possession may be mailed out of the institution to a destination of the inmate's choice at the expense of the inmate, in accordance with DOC policies and institutional OMs.
 - 4. Inmate wedding bands, watches, earrings and medallions may not contain stones and will not have a value that exceeds \$35.00.
 - 5. Inmates may submit an Administrative Remedy (See DOC policy 1.3.E.4 [Administrative Remedy for Inmates](#)) for property claims involving lost or damaged personal property caused by the alleged negligence of a staff member.
 - 6. If the loss or damage to inmate personal property is verified through an investigation conducted by the institution or response to a request for Administrative Remedy, a claim will be filed with the Office of Risk Management for the replacement value of the lost or damaged property.
- C. The institution's property inventory system constitutes proof of ownership by the inmate of the personal property and does not provide proof of value of the property item.
- D. Inmates are responsible for immediately reporting all personal property that is lost, stolen or missing to staff.
- E. When an inmate is temporarily removed from an assigned cell for medical care, court appearance, placement on disciplinary or IP status, or other such temporary reasons, staff shall ensure the inmate's property is promptly removed from the inmate's cell, packed, inventoried and stored in an approved, secure location. Allowable personal property shall be re-issued to the inmate upon their return.

4. Disposal of Inmate Personal Property:

- A. Each institution will establish procedures for, handling, reporting and disposing of all contraband and inmate personal property.
- B. Following an inmate's death, discharge or escape, all tangible inmate personal property may be sold, donated to charity, discarded, returned to an heir or used for the benefit of the facility in accordance with SDCL § 24-5-5 and DOC policy 1.4.E.6 *Death of an Offender*.
- C. The institution will maintain documentation of discarded, donated or destroyed property for a minimum of three (3) years.
- D. The DOC, staff and the institution is not responsible for the personal property of an inmate who escapes or absconds from DOC custody.
 - 1. Personal property of an inmate who escapes or absconds will be declared "unclaimed" property and may be disposed of in accordance with the procedures set forth within this policy.

V Related Directives:

SDCL §§ 22-1-2(10), 24-2-26, 24-5-5 and Chapter 34-20B.

DOC policy 1.3.A.5 – *Searches – Adult Institutions*
DOC policy 1.3.C.2 – *Inmate Discipline System*
DOC policy 1.3.C.4 – *Forfeiture of Inmate Personal Property*
DOC policy 1.3.E.4 -- *Administrative Remedy for Inmates*
DOC policy 1.4.E.6 -- *Death of an Offender*

VI Revision Log:

October 2002: Revised policy statement.

June 2004: Revised the policy statement **Added** the definition for contraband. **Added** references to policies 1.3.A.5, 1.3.C.2, 1.3.C.4 and the Inmate Living Guide. **Rearranged** the information in the policy into two sections.

July 2005: **Added** reference to attachment 1

June 2006: **Revised** attachment 1 **Updated** the policy name on 1.3.A.5.Required property documentation to be on the Citrix database.

June 2008: **Revised** formatting of policy in accordance with DOC policy 1.1.A.2 Policy and Operational Memorandum Management. **Replaced** "exempted" with "approved" in subsection (A3 of Allowable Inmate Personal Property section). **Revised** "Warden or his designee" to read "Warden or Designee" throughout policy **Replaced** "correctional" employees to "DOC" employees in subsections (B1 and B2 of Recording and Tracking Inmate Personal Property Revised attachment 1 with header, footer and hyperlink.

June 2009: **Deleted** SD DOC as it relates to Inmate Living Guide in ss (C2 of Allowable Inmate Personal Property).**Added** reference to Attachment 1 in ss (B of Recording and Tracking Inmate Personal Property).**Added** hyperlinks throughout policy. **Revised** Attachment 1 to include reference to this policy and updated picture of attachment within policy.

June 2010: **Revised** formatting of Section 1.

July 2011: **Added** definition of "Personal Property". **Added** "such as craft supplies, religious and cultural items" to Section 1. A. 1.**Added** "This includes legal documents and materials" to Section 1. A. 2. **Added** "and be stored in approved storage containers" to Section 1. A. 3 **Added** 3. "All unapproved property, except money, in an inmate's possession at the time they are admitted to the DOC shall be mailed to a destination of the inmate's choice and at the expense of the inmate. Money shall be

deposited into the inmate's institutional account (see SDCL 24-2-5)." to Section 3. **Deleted** "his/her" in Section 1 B **Added** "established by the institution." to Section 1 C. **Added** "and disposal" to Section 1 C. 2. **Deleted** "also" and **Added** "and disposal" to Section 1 C. 3. **Added** "lost, stolen, damaged" to Section 1. C. 5 **Created** Section 2 "Forfeiture of Property" **Added** 1. "Staff will only store forfeited property until the conclusion of any appeal the inmate pursues through the Administrative Remedy Process" to Section 2. A. **Added** a. "Inmates must make arrangements with the institution's property office to send out or destroy forfeited property" to Section 2. A. 1. **Added** "or its employees" to Section 3 A. 1. **Added** "at their own expense" to Section 3 A. 3 **Added** "absolves the DOC and all" to Section 3. B. **Added** "negligent" to Section 3 B. 1. **Added** Section 4. "Disposal of Inmate Personal Property" **Added** A. "Each institution will establish procedures for handling, reporting and disposing of all contraband and inmate personal property" **Added** 1. "Confiscation of contraband of forfeiture of inmate personal property is not theft as referenced in SDCL 22-30A-21" to Section 4. **Added** B. "Personal property not claimed following an inmate's escape or death will be discarded, donated to charity or destroyed by DOC staff." to Section 4. **Added** C. "The institution will maintain documentation of discarded, donated or destroyed property for a minimum of three (3) years." to Section 4.

July 2012: Reviewed with No changes.

January 2013: **Added** "or donated to charity or destroyed" in Section 1 A. 4. **Deleted** "a rule infraction" and **Replaced** with "an Offense in Custody" in Section 1 C. 2. **Deleted** "Category 5 Prohibited Act at any time or three Category 4 Prohibited Acts" and **Replaced** with "high or moderate Offense in Custody or three low Offenses in Custody" in Section 2 A. **Deleted** "on the Citrix database" and **Replaced** with "in COMS" in Section 3 A.

July 2013: Reviewed with no changes.

June 2014: **Added** "Consistent with the mission of the institution, each Warden will identify in writing the personal property which may be retained by inmates at the institution" in Section 1 A. **Added** "numerical" and **Added** "The amount of space provided to store property may depend on the number of inmates assigned to the institution and available space" in Section 1 A. 2. **Added** 3-6. in Section 1 A. **Added** a. & b. in Section 1 B. 2. **Added** 3. and 3. a. and 4 in Section 1. **Added** C. 1-4 in Section 1. **Added** D-E to Section 1. **Added** "Personal property may be mailed to a destination of the inmate's choice and at the expense of the inmate in accordance with DOC policies and institutional OMs" in Section 3 B. 2. **Added** a. to Section 3 B. 2. **Added** 3. & 4. to Section 3 B. **Added** E. & F. in Section 3. **Added** D. to Section 4.

June 2015: Reviewed with no changes.

September 2015: **Added** 8. to Section 1 A. **Added** a. to Section 2 A. 2. **Added** E. to Section 3. **Updated** Attachment 1.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

09/23/2015

Date

