



<p style="text-align: center;">SOUTH DAKOTA</p>  <p style="text-align: center;">DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE</p>		POLICY NUMBER	PAGE NUMBER
		1500-02	1 OF 4
		DISTRIBUTION:	Public
		SUBJECT:	Offender Access to the Courts
RELATED STANDARDS:	ACA 5-ACI: 1E-04, 3D-01, 3D-03	EFFECTIVE DATE:	December 01, 2024
		SUPERSESION:	10/01/2022
DESCRIPTION: Legal Services	REVIEW MONTH: November	 <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>	

## I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to afford offenders reasonable access to the courts in all legal claims involving direct appeal from the conviction which they are incarcerated, habeas petitions, civil rights actions, or conditions of confinement, and *govern offenders' access to information in their case records* [ACA 5-ACI-1E-04]. Offenders will have access to approved legal forms, legal materials and to their attorney to provide them reasonable opportunity to prepare legal documents. Nothing in this policy or processes contained within affect an offender's ability to independently pursue actions on their own or to obtain legal counsel.

## II. PURPOSE

The purpose of this policy is to provide offenders reasonable access to the courts, legal materials, legal research materials in all legal claims involving direct appeal from the conviction which they are incarcerated, habeas petitions, civil rights actions, and conditions of confinement.

## III. DEFINITIONS

### Conditions of Confinement:

Those lawsuits that allege in the initial pleadings an agent, employee, or officer of the South Dakota DOC is holding the offender-plaintiff under circumstances or conditions that violate their rights under the U.S. Constitution.

### General Civil Claim:

A claim, cause of action, lawsuit, judgment, court order, administrative order, government, or agency order, fine, penalty, notice of violation, or other similar claim for civil relief with respect to damages or harm to persons, property, or natural resources.

### Legal Documents:

Affidavits, motions, orders, or like documents that constitute pleadings before a court. Legal documents are limited to those documents required for writs of habeas corpus, complaints contesting conditions of confinement, or direct appeals from an offender's sentence or conviction.

### Legal Typing:

An area at each facility with computers equipped with software for preparing word documents.

### Non-Qualified Claim:

Any legal claim that is not related to an offender's current confinement.

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**Pro Se:**

Self-representation in a legal proceeding.

**IV. PROCEDURES**

**1. Requirements:**

- A. *Written policy, procedure, and practice provide for the right of offenders to have access to an appropriate law library and to paper, typewriters or typing services, and other supplies and services related to legal matters [ACA 5-ACI-3D-03].* The DOC will ensure offenders have reasonable access to legal materials. *All offenders*, regardless of eligibility or financial status, will *have access to the courts [ACA 5-ACI-3D-01]*, consistent with the legitimate penological objectives of the DOC. All offenders will be permitted opportunity to access legal materials while in DOC custody to prepare legal pleadings, to include:
  1. Opportunity to communicate with the courts and legal counsel.
  2. Access to approved legal materials, including those available on the offender tablets and kiosks.
  3. Access to approved and available legal forms and copies.
  4. Access to designated computers with software that allows offenders to type legal documents.

**2. Access to Legal Typing:**

- A. Acceptable Documents to Type:
  1. Documents such as summons, complaints, motions, discovery, stipulations, orders are permitted.
  2. All documents that are being typed must be for the purpose of starting a case or for an active/pending case.
- B. Accessibility.
  1. Offenders must submit a kite to “Legal Typing” to request computer time.
  2. An offender will be allowed to sign up for either a morning or afternoon session.
    - a. The morning session is from 8:00am – 11:00am and the afternoon session is from 12:30pm-3:30pm. Staff will assign times based on availability and when count clears.
  3. After the request has been submitted and approved, the offender will be notified of the date and time.
- C. Legal Printing and Copies.
  1. Printing and copying services will be done by the housing staff. Copy requests must be submitted by kite.
  2. Staff are allowed to summarily review any documents to be printed or copied in order to determine that they are legal documents and are documents that belong to that offender printing and/or copying them.
  3. The offender will be charged five cents (\$0.05) per printed/copied page.
  4. At no time is an offender to have access to a copier/printer/scanner without permission from the staff.
  5. At no time is an offender allowed to be in possession of another offender’s legal work.
  6. Offenders who are indigent are allowed to make photocopies of legal work for a value up to, but not exceeding, two dollars (\$2.00) per month. That is equivalent of forty (40) one sided copies, or twenty (20) two sided copies per month.
    - a. If an indigent offender has already used his/her monthly allotment of legal copies and has a deadline that requires additional copies to timely file legal pleadings in the same month, the indigent offender should inform the housing sergeant of their need to make legal copies and provide proof of the impending deadline.
  7. Copies can be denied if the material is not legal in nature, unreasonably voluminous, in excess of the judicial requirements for the number of required sets for distribution (such as requesting ten (10) copies when there are only three (3) defendants).

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#### D. Legal Mail.

1. Offenders shall have access to approved writing tools, and legal and/or manila envelopes through commissary.
2. State-paid postage for privileged/legal correspondence is limited to five (5) mailings per week, per offender. State-paid postage will not exceed fifteen dollars and zero cents (\$15.00) per month, per offender. The new month shall start with the first full week of the month. Please reference DOC policy 500-06 – *Offender Correspondence* for more information.
  - a. If an indigent offender has already used his/her monthly allotment of legal correspondence postage and has a deadline that requires additional copies to timely file legal pleadings in the same month, the indigent offender should inform the housing sergeant of their need to mail additional legal correspondence and provide proof of the impending deadline.
3. DOC will supply access to South Dakota legal forms, obtained from UJS, in various areas of law at no cost to offenders. DOC will provide access to legal reference materials via offender tablets and kiosks, which shall be made available to offenders at all adult DOC facilities.
4. DOC does not provide offenders with forms, documents, or legal materials from other states. It is the offender’s duty to contact the courts within that state to request such materials or forms.
5. Offenders are permitted to purchase or obtain soft cover legal reference books and printed legal matter sent directly to the offender from a publisher or distributor, consistent with DOC policy.
6. All revised or rescinded legal materials or forms shall be promptly removed and/or replaced at the direction of DOC legal. Older versions will not be retained or archived.

### 3. Responsibilities:

#### A. Offender Responsibilities:

1. Offenders are responsible for their own time management and deadlines.
2. An offender must submit a scheduling request to use legal typing
3. Offenders are only allowed to use the computers for typing their own work.

#### B. Staff Responsibilities:

1. A staff member may not draft pleadings or assist offenders in drafting pleadings. The staff member is to provide security and supervision of the law library and offenders who are using the library.
2. Offenders shall have access to free notary services through housing staff. Any document presented to a staff member for notarization is subject to review by staff to ensure the staff member is notarizing documents he/she is permitted to notarize.

### 4. Usage:

- A. Offenders are prohibited from accessing a staff computer.
- B. Computers will only contain programs which provide word processing and forms approved by the office of the General Counsel.
- C. There will be no internet and/or network capability connected to computers in the law library with the exception of staff computers.

### 5. Interstate Compact Offenders:

- A. DOC will not supply forms for any state other than South Dakota.
- B. Interstate Compact Offenders must send a letter to the compact coordinator and the coordinator will handle the mailing of any materials that are needed.

### 6. Assistance for Qualified ADA Offenders:

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- A. Offenders requiring assistance may notify his or her respective ADA facility coordinator, in accordance with DOC policy.
- B. Offenders may request assistance by sending a completed ADA Offender Request for Reasonable Accommodation form (DOC policy 1500-01 – *Americans with Disabilities Act (ADA)*) to the ADA facility coordinator. The ADA facility coordinator will verify the offender is eligible to receive assistance. If determined eligible, the ADA facility coordinator or designee shall promptly alert the legal typing staff of the offender’s approved accommodation as it relates to legal typing.

**7. Discipline:**

- A. If an offender is in possession of another offender’s legal work, both offenders will be disciplined. Discipline will consist of legal typing privileges of both parties legal typing privileges being revoked for a week.

**8. General Provisions:**

- A. Offenders are responsible for their own legal fees.
- B. Offender complaints regarding legal assistance or legal materials must be addressed through the offender grievance administrative remedy process.
- C. Offenders seeking judicial or administrative relief will not be subjected to reprisals or penalties because of their decision to seek relief.
- D. DOC reserves the right to discontinue selected subscriptions or to substitute appropriate reference materials for those indicated.

**V. RESPONSIBILITY**

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

**VI. AUTHORITY**

None.

**VII. HISTORY**

December 2024  
September 2022  
July 2021  
July 2020  
June 2019

**ATTACHMENTS**

- 1. DOC Policy Implementation / Adjustments