

 <div style="text-align: center;"> DIVISION OF ADULT INSTITUTIONS POLICY AND PROCEDURES </div>	DAI Policy #: 309.51.01	Page 1 of 7
	Original Effective Date: 11/01/91	New Effective Date: 03/25/24
	Supersedes: 309.51.01	Dated: 03/16/20
	Administrator's Approval: Sarah Cooper, Administrator – 03/04/24	
	Required Posting or Restricted: <input checked="" type="checkbox"/> PIOC <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted	
Chapter: 309 Resources for Inmates		
Subject: Legal Loans		
Guidance Document <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

POLICY

The Division of Adult Institutions (DAI) shall loan PIOC without sufficient funds in their regular account up to \$100 annually to access the courts.

REFERENCES

28 U.S.C. § 1915 Proceedings in forma pauperis
§ 115.401 Frequency and scope of PREA audits
Wisconsin Statutes s. 301.32 – Property of Prisoners, Residents, and Probationers
Wisconsin Statutes s. 301.328 – Judgment for Litigation Loans to prisoners.
Wisconsin Statutes s. 809.30 – Rule (Appeals in s. 971.17 proceedings and in criminal, Ch. 48, 51, 55, 938, and 980 cases)
Wisconsin Statutes s. 809.32 – Appellate Claims (Rule-No merit reports)
Wisconsin Statutes s. 809.62 – Rule (Petition for review)
Wisconsin Statutes s. 814.29 – Security for costs, service and fees for indigents, also commonly referred to as the “Prison Reform Litigation Act” (PLRA).
Wisconsin Statutes s. 893.82(5) – Claims Against State Employees; Notice of Claim Limitations of Damages
Wisconsin Statutes s. 971.17 – Commitment of persons found not guilty by reason of mental disease or mental defect
Wisconsin Statutes s. 973.195 – Appellate Claims (Sentence Adjustment)
Wisconsin Statutes s. 974.06 – Post conviction Procedure
Wisconsin Statutes s. 974.07 – Appellate Claims (Motion for post conviction DNA testing for certain evidence)
Wisconsin Administrative Code s. DOC 309.04(3) – Inmate Mail
Wisconsin Administrative Code s. DOC 309.155 – Legal Services
Wisconsin Administrative Code s. DOC 309.49 – Disbursement of Inmate Account Funds
Wisconsin Administrative Code s. DOC 309.51 – Funds for Legal Correspondence and Copying
Wisconsin Administrative Code Ch. DOC 310 – Complaint Procedures
DAI Policy 309.04.01 – PIOC Mail
DAI Policy 309.15.01 – Law Library
DAI Policy 309.45.02 – Inmate Trust System Deductions
Executive Directive 72- Sexual Abuse and Sexual Harassment in Confinement

DEFINITIONS, ACRONYMS AND FORMS

BOCM – Bureau of Offender Classification and Movement

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Calendar Year- A calendar year is January 1 to December 31

CCE – Corrections Complaint Examiner

DAI – Division of Adult Institutions

Data Storage Device – Instrument in various formats to facilitate transfer or storage of computer generated documents and media. Often a portable/removable device commonly known as a USB drive, flash drive, jump drive, thumb drive, USB key, USB stick, memory stick or USB portable hard drive. Other formats may include read only computer disks (CD, CD-ROM, DVD-ROM) and ‘floppy’ disks.

DOC – Department of Corrections

DOC-184 – Disbursement Request

DOC-1290 – Loan Application and Repayment Agreement

DOC-1292 – Administrative Review of Initial Classification (IC) or Re-Classification (RC) Decision

ICE – Institution Complaint Examiner

ICRS – Inmate Complaint Review System

PIOC – Persons in Our Care

PIOC Monies – All funds, including but not limited to awards, allowances, compensation, institution PIOC payroll, gifts, hobby sales, or from any other source that comes under the control of a Wisconsin facility disbursed by the facility for the benefit of PIOC.

PIOC Personal Legal Documents – Documents created by the court, PIOC, or opposing counsel that directly relate to the case, plus necessary exhibits, which may or may not include documents in the social services file, education file, etc. Also, these are legal documents that pertain to PIOC own case, rather than a different PIOC case.

Legal Loan - A loan made to a prisoner by the department to pay for paper, photocopying and postage.

No-merit Report – A report submitted by an attorney appointed to represent a defendant in a criminal appeal or other post-conviction proceeding that identifies anything in the record that might arguably support the appeal and that discusses the reasons why each identified issue lacks merit. The defendant then has the statutory right to respond.

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PACER – Public Access to Court Electronic Records

Parties in Litigation – Plaintiff, petitioner, defendant, respondent, or a person or entity named in a case as an “interested party.”

PREA – Prison Rape Elimination Act

TRIP - Tax Refund Intercept Program

WCCA – Wisconsin Circuit Court Access

WICS – Wisconsin Integrated Corrections System

PROCEDURE

I. General

- A. Legal loan funds can be used for correspondence to courts, Attorney General for Notice of Claims, attorneys, other active parties in litigation, ICRS under ch. 310, or the Parole Commission related to themselves.
- B. Legal loans shall be provided to PIOC without sufficient funds in their regular account up to \$100 annually to purchase:
 1. Supplies to include paper, writing utensil, envelopes and data storage device.
 2. Photocopies.
 3. Postage for correspondence.
- C. Funds in PIOC regular account at the time of purchase shall be utilized prior to the loan being charged.
- D. PIOC who are represented by an attorney are not eligible for legal loan funds in that case except in order to respond to a no-merit brief in a criminal appeal.
- E. Legal loan shall not be used to pay for legal services, public records requests, federal or state filing fees or personal use.
- F. Legal loan may be used for copies from PIOC own social service file if the documents are related to the case.
- G. Legal loan may be used to send confidential information or correspondence to the institution’s identified PREA auditor within 6 weeks’ notice of an audit.
- H. PIOC monies shall be applied in accordance with DAI Policy 309.45.02 for repayment of unpaid legal loans.
- I. The facility shall charge the amount loaned under this subsection to PIOC general account for future repayment.

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- J. PIOC shall only use the legal loan supplies provided to them for their own legal work.
- K. PIOC shall reapply for each legal loan at the beginning of each calendar year and also if transferred to another facility.

II. Loan Approval and Denial

- A. PIOC applying for a legal loan shall fully complete and submit a DOC-1290 for each case/complaint.
- B. Consideration for legal loan eligibility may include but not be limited to the following factors:
 - 1. The nature of pending litigation and current legal needs identified by the court (i.e. a Schedule Order or court-imposed deadlines).
 - 2. The failure to provide realistic estimates of the cost of the documented current legal needs.
 - 3. The failure to provide requested supporting documentation of a current legal need.
 - 4. The refusal to allow facility staff to open an envelope in their presence to verify the contents are entirely legal mail shall be denied access to legal loan funds for that mailing.
 - 5. The failure to use the legal supplies in the manner pursuant to the legal loan application.
 - 6. If the Security Director/designee has reason to believe the mail contains contraband for mail addressed to an ICE or CCE, PIOC shall allow facility staff to open the envelope in PIOC presence or PIOC shall be denied access to legal loan funds for that mailing.
- C. PIOC shall not exceed an open legal loan amount of \$100 annually without Warden's approval and documentation of an extraordinary need in one of the following areas:
 - 1. PIOC have requested a certified copy of their trust account statement per 28 U.S.C. § 1915(a) (2) and Wis. Stat. § 814.29(1m)(h).
 - 2. PIOC are defending themselves against a pending criminal charge and is unrepresented by counsel in that case. WCCA/PACER may be utilized to verify assigned counsel.
 - 3. PIOC have challenged or seeks to challenge their underlying criminal conviction and/or sentence in a first appeal as of right under Wisconsin Statutes s. 809.30 and is unrepresented by counsel in that appeal.
 - 4. PIOC seek to file a petition for review in the Supreme Court, pursuant to Wisconsin Statutes s. 809.62, of an adverse decision in the Court of Appeals on a case pertaining to proceedings under Wisconsin Statutes s. 971.17, Chapters 48, 51, 55, 938, or 980, or a criminal conviction or sentence, and is unrepresented by counsel.
 - 5. PIOC need to respond to a no-merit report pursuant to Wisconsin Statutes s. 809.32(1)(e) or to respond to a no-merit petition for review pursuant to Wisconsin Statutes s. 809.32(4)(c).

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6. PIOC seek to file their first post-conviction motion under Wisconsin Statutes s. 974.06 in a given case and is unrepresented by counsel in that proceeding.
7. PIOC have filed or seeks to file a motion under Wisconsin Statutes s. 974.07 for post-conviction DNA testing and is unrepresented by counsel in that proceeding.
8. PIOC have filed or seeks to file a petition for sentence adjustment under Wisconsin Statutes s. 973.195 and is unrepresented by counsel in that proceeding.
9. PIOC seek to file a motion for sentence credit.
10. PIOC are defending themselves against a pending termination of parental rights case and is unrepresented by counsel in that case.
11. PIOC are representing themselves in a first appeal of a termination of parental rights and is unrepresented by counsel in that appeal.
12. PIOC are named as an active defendant or respondent in a case commenced by someone other than PIOC, and PIOC rights of a significant constitutional magnitude are at stake.
13. PIOC seek to access the ICRS under Wisconsin Administrative Code Ch. DOC 310.
14. PIOC seek to submit a DOC-1292 to the BOCM Director.
15. PIOC seek to submit documents or correspondence to the Parole Commission.
16. PIOC are filing their first federal habeas case for a state court conviction.
17. There is a court order requiring submission of specified documents.
18. PIOC are mailing a "Notice of Claim" to the Attorney General.

D. If a loan is denied, staff shall inform PIOC of the reason for the decision in writing.

III. Appropriate Use of Legal Loan Funds for Supplies, Postage, Printouts and Photocopies

- A. Legal supplies issued to PIOC under a loan agreement shall be charged to their account.
- B. Supplies shall be limited to 8 ½" X 11" paper, 9" X 12" or 10" X 13" manila envelopes, 4 1/8" X 9 ½" (#10) letter envelopes, carbon paper, pens and data storage device.
- C. Postage covered under legal loans includes first class mail addressed to courts, sheriff departments, Clerk of Courts, authorized attorneys, parties in litigation, the ICRS, the Parole Commission and DOC-1292 to the BOCM Director.
 1. PIOC may use legal loan funds for postage by attaching a DOC-184 to the unsealed envelope. The DOC-184 shall contain the complete mailing address and case and/or complaint number, if applicable.

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2. The envelope may be sealed only if it is clearly addressed to an ICE, a CCE, an attorney, the Attorney General or Assistant Attorney General of Wisconsin, or the clerk or judge of any state or federal court.
3. Certified mail is only allowed for "Notice of Claims" to the Attorney General's office.

- D. Legal loan funds may be used to copy PIOC personal legal documents.
- E. PIOC shall not use legal loan funds for copies of documents in their Health Care Records, except when PIOC can demonstrate a clear need for the records for the litigation for which the loan has been approved.
- F. Photocopying of legal research materials is prohibited under this procedure.

IV. Facilities Shall:

- A. Witness and process the DOC-1290.
- B. Establish and maintain a file of the processed DOC-1290s.
- C. Upload and save all applications to PIOC WICS trust account.
- D. Enter legal loan transactions in WICS and apply PIOC funds toward repayment of legal loans in accordance with DAI Policy 309.45.02.
- E. Ensure new loans are created in WICS every calendar year.
- F. Track amount of legal loans annually.
- G. Pursue repayment of legal loan balances pursuant to Wisconsin Statutes s. 301.328.
- H. Pursue repayment of legal loan balances via TRIP.
- I. Notarize DOC-1290s for PIOC who claim imminent danger on their application(s).

V. PIOC Shall:

- A. Complete and submit a DOC-1290 for each legal loan each calendar year.
- B. Have the DOC-1290 notarized if you are claiming imminent danger.
- C. Provide any additional documentation requested by the Warden/designee.
- D. Monitor the amount remaining on their legal loan in anticipation of reaching the \$100 cap and inform the court and opposing counsel, if necessary.

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date:	DAI Policy Number: 309.51.01	Page 7 of 7
New Effective Date: 00/00/00	Supersedes Number:	Dated:
Chapter: 309 Resources for Inmates		
Subject: Legal Loans		
Will Implement <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
Warden's/Center Superintendent's Approval:		

REFERENCES**DEFINITIONS, ACRONYMS AND FORMS****FACILITY PROCEDURE**

I.

- A.
- B.
 - 1.
 - 2.
 - a.
 - b.
 - c.
 - 3.
- C.

II.

III.

RESPONSIBILITY

I. Staff

II. PIOC

III. Other