

 <p style="text-align: center;">DIVISION OF ADULT INSTITUTIONS</p> <p style="text-align: center;">POLICY AND PROCEDURES</p>	DAI Policy #: 309.51.01	Page 1 of 8
	Original Effective Date: 11/01/91	New Effective Date: 01/01/13
	Supersedes: 309.51.01	Dated: 08/05/11
	Administrator's Approval: Cathy A. Jess, Administrator	
Required Posting or Restricted:		
<input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted		
Chapter: 309 Resources for Inmates		
Subject: Legal Loans		

POLICY

The Division of Adult Institutions shall loan up to \$100 annually to indigent inmates for supplies, photocopies, and postage to allow them access to the courts for litigation related to their own cases.

REFERENCES

Wisconsin Statutes s. 301.32 – Property of Prisoners, Residents, and Probationers
Wisconsin Statutes s. 301.328 – Judgment for Litigation Loans to Prisoners and limitations on 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
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 – Postconviction 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 General 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 – Inmate Mail
DAI Policy 309.15.01 – Institution Law Library
DAI Policy 309.45.02 – Inmate Trust System Deductions

DEFINITIONS, ACRONYMS, AND FORMS

BOCM – Bureau of Offender Classification and Movement

CCE – Corrections Complaint Examiner

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DAI – Division of Adult Institutions

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

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

Inmate Personal Legal Documents - Documents created by the court, the inmate, 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 an inmate's own case, rather than a different inmate's case.

WITS – Wisconsin Inmate Trust System

PROCEDURE

I. General

- A. Legal loans may not be used to pay for legal services, public records requests, federal or state filing fees, or personal use.
- B. Inmates must apply for a loan and sign a DOC-1290 for each case for which a loan is requested. Inmates shall reapply for each legal loan at the beginning of each calendar year and also if transferred to another facility.
- C. All inmate monies will be applied as outlined in DAI Policy 309.45.02. Funds will be applied to the oldest debt first. Any amounts applied toward a prior year's legal loan balance will not be credited to the current year's accumulated loan amount.
- D. Legal loan balances will be forwarded to the receiving facility when an inmate is transferred.

II. Legal Loan Eligibility or Ineligibility

Criteria used by facility staff to determine eligibility or ineligibility for a legal loan include, but are not limited to:

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- A. Inmate account balances.
- B. Anticipated payroll earnings.
- C. Other receipts, including receipt of monies and/or supplies from outside sources.
- D. Recent spending patterns, including canteen purchases, outside purchases, and funds to family.
- E. Nature of pending litigation and current legal needs, as documented by the requesting inmate.
- F. Estimates of the cost of the documented current legal needs.
- G. Whether the loan is for an appropriate purpose under Wisconsin Administrative Code s. DOC 309.51.
- H. The amount of outstanding legal loans from prior years.
- I. The inmate's history of repayment of legal loans.
- J. Legal supplies currently in the inmate's possession.

III. Loan Approval and Denial

- A. Any inmate who seeks a legal loan must complete, sign and submit a DOC-1290. The loan application will not be processed and the loan will not be provided until the inmate fully completes, signs and submits the form.
- B. Loans will be denied if the inmate does not have a financial need after consideration of the criteria in Section II of this policy.
- C. Even if an inmate is financially eligible, loan requests will be denied if:
 - 1. An inmate fails to provide any requested supporting documentation of a current legal need.
 - 2. The loan request is not for an appropriate purpose under Wisconsin Administrative Code s. DOC 309.51.
- D. Except for the reasons below, annual legal loans will be capped at \$50 for inmates who have not fully repaid any prior year's legal loan:
 - 1. The inmate is defending him or herself against a pending criminal charge and is unrepresented by counsel in that case.
 - 2. The inmate has challenged or seeks to challenge his or her underlying criminal conviction and/or sentence pursuant to Wisconsin Statutes s. 809.30 and is unrepresented by counsel in that appeal.
 - 3. The inmate seeks 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

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Statutes s. 971.17, Chapters 48, 51, 55, 938, or 980, or a criminal conviction or sentence, and is unrepresented by counsel.

4. The inmate is represented by counsel and needs 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).
 5. The inmate has filed or seeks to file a motion under Wisconsin Statutes s. 974.07 and is unrepresented by counsel in that proceeding.
 6. The inmate has filed or seeks to file a petition for sentence adjustment under Wisconsin Statutes s. 973.195 and is unrepresented by counsel in that proceeding.
 7. The inmate is defending him or herself against a pending termination of parental rights case and is unrepresented by counsel in that case.
 8. The inmate is representing him or herself in a first appeal of a termination of parental rights and is unrepresented by counsel in that appeal.
 9. The inmate is a named and active defendant in a case commenced by someone other than the inmate and the inmate's rights, of a significant constitutional magnitude, are at stake.
 10. The inmate alleges, under oath in front of a notary public, that s/he is in imminent danger of death or serious bodily injury, and his/her total outstanding legal loan for the year includes less than \$100 in litigation loan debt pertaining to civil litigation commenced by the inmate. If the inmate seeks a legal loan extension under this subsection, the inmate's total annual outstanding legal loan debt pertaining to civil litigation commenced by the inmate may not exceed \$100.
 11. The inmate has requested a certified copy of his/her trust account statement per Wisconsin Statutes s. 814.29(1m)(h).
 12. Access to the ICRS under Wisconsin Administrative Code Ch. DOC 310.
 13. Send a DOC-1292 to the BOCM Director.
 14. The inmate is filing his first federal habeas case for a state court conviction.
- E. If a loan is denied, institution/center staff will inform the inmate in writing, noting the reason for the decision.

IV. Legal Loan Limits

- A. For inmates who have fully repaid all prior years loans, the inmate's legal loan balance may not exceed \$100 per calendar year for all legal loan debts incurred within the DOC, except as identified below.
- B. Requests to exceed the \$100 loan limit must be submitted with the supporting documentation directly to the Warden/designee. The limit may be exceeded if an inmate shows an extraordinary need, for the following purposes:
 1. The inmate is defending him or herself against a pending criminal charge and is unrepresented by counsel in that case.
 2. The inmate has challenged or seeks to challenge his or her underlying criminal conviction and/or sentence in a first appeal as of right under

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Wisconsin Statutes s. 809.30 and is unrepresented by counsel in that appeal.

3. The inmate seeks 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.
4. The inmate is represented by counsel and needs 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).
5. The inmate seeks to file his or her first postconviction motion under Wisconsin Statutes s. 974.06 in a given case and is unrepresented by counsel in that proceeding.
6. The inmate has filed or seeks to file a motion under Wisconsin Statutes s. 974.07 for postconviction DNA testing and is unrepresented by counsel in that proceeding.
7. The inmate has filed or seeks to file a petition for sentence adjustment under Wisconsin Statutes s. 973.195 and is unrepresented by counsel in that proceeding.
8. The inmate seeks to file a motion for sentence credit.
9. The inmate is defending him or herself against a pending termination of parental rights case and is unrepresented by counsel in that case.
10. The inmate is representing him or herself in a first appeal of a termination of parental rights and is unrepresented by counsel in that appeal.
11. The inmate is a named and active defendant in a case commenced by someone other than the inmate and the inmate's rights, of a significant constitutional magnitude, are at stake.
12. The inmate has requested a certified copy of his/her trust account statement per Wisconsin Statutes s. 814.29(1m)(h).
13. The inmate seeks to access the ICRS under Wisconsin Administrative Code Ch. DOC 310.
14. The inmate seeks to send a DOC-1292 to the BOCM Director.

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

- A. Legal supplies issued to inmates under a loan agreement will 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, and pens, subject to facility housing unit and property rules.
- C. Postage covered under legal loans includes first class mail to courts, sheriffs departments for purposes of requesting service of pleadings, clerk of courts, witnesses, authorized attorneys, parties in litigation, the ICRS, the parole board and DAI Director of the BOCM for DOC-1292s only.

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1. Inmates may use legal loan funds for postage by attaching a DOC-184 to the unsealed envelope. The DOC-184 must contain the complete mailing address and case and/or complaint number, if applicable.
 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 inmate personal legal documents.
- E. Inmates may not use legal loan funds for copies of documents in their Health Care Records, except when an inmate 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.
- G. The supplies provided to an inmate pursuant to a legal loan may not be used by the inmate to do other inmates' legal work. Any such use constitutes a disciplinary offense.
- H. An inmate who refuses to allow institution/center staff to open an envelope in their presence to verify that the contents are entirely legal mail will be denied access to legal loan funds for that mailing.
- I. If the Security Director has reason to believe the mail contains contraband for mail 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, the inmate must allow facility staff to open the envelope in the inmate's presence or the inmate will be denied access to legal loan funds for that mailing.
- J. An inmate who fails to provide requested supporting documentation to confirm that an addressee meets the necessary criteria will be denied access to legal loan funds for that mailing.

VI. Facilities Shall:

- A. Witness and process the DOC-1290.
- B. Establish and maintain a file of the processed DOC-1290s.
- C. Enter legal loan transactions in WITS and apply inmate funds toward repayment of legal loans in accordance with DAI Policy 309.45.02.
- D. Pursue repayment of legal loan balances through the parole agent upon release, pursuant to Wisconsin Statutes s. 301.328.

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- E. Pursue repayment of legal loan balances via the Tax Refund Intercept Program also known as TRIP.

VII. Inmates Shall:

- A. Complete and submit a DOC-1290 for each legal loan.
- B. Provide any additional documentation requested by the Warden/designee.
- C. Use the supplies, photocopies, and postage to do his/her own legal work only.
- D. Keep track of the amount remaining of their legal loan and in anticipation of reaching the \$100 cap, inform the court and opposing counsel, if necessary.

Administrator's Approval: _____ **Date Signed:** _____
Cathy A. Jess, Administrator

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Name		
Original Effective Date:	DAI Policy Number: 309.51.01	Page 8 of 8
New Effective Date: 00/00/00	Supersedes Number:	Dated:
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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. Inmate

III. Other