

 <p style="text-align: center;"><b>DIVISION OF ADULT INSTITUTIONS</b></p> <p style="text-align: center;"><b>POLICY AND PROCEDURES</b></p>	<b>DAI Policy #:</b> 300.00.67	<b>Page</b> 1 of 6
	<b>Original Effective Date:</b> 12/13/12	<b>New Effective Date:</b> 05/15/20
	<b>Supersedes:</b> 300.00.67	<b>Dated:</b> 03/01/17
	<b>Administrator's Approval:</b> Makda Fessahaye, Administrator	
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<input checked="" type="checkbox"/> <b>Inmate</b> <input checked="" type="checkbox"/> <b>All Staff</b> <input type="checkbox"/> <b>Restricted</b>		
<b>Chapter:</b> 300 Administrative		
<b>Subject:</b> Digital Formatted Legal Materials		
<b>Guidance Document</b>	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	<b>Posting date</b> <b>5/15/20</b>

**POLICY**

The Division of Adult Institutions shall establish uniform guidelines for inmates to view legal material received in digital format. These guidelines shall provide inmates adequate opportunity to have access to legal material in digital format while ensuring access to the material is controlled in accordance with the security needs of the facility.

**REFERENCES**

Wisconsin Statutes s. 809.30 – Rule (Appeals in s. 971.17 proceedings and in criminal, Ch. 48, 51, 55, 938, and 980 cases)

Wisconsin Administrative Code s. DOC 306.20 – Personal Property

DAI Policy 306.00.16 – Contraband

DAI Policy 306.00.27 – Transportation of Inmates

DAI Policy 309.04.01 – Inmate Mail

DAI Policy 309.15.01 – Law Library

DAI Policy 309.20.03 – Inmate Personal Property and Clothing

DAI Policy 309.51.01 – Legal Loans

**DEFINITIONS, ACRONYMS AND FORMS**

Codec – A device or computer program capable of encoding or decoding a digital data stream or signal.

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

DFLM – Legal materials on a data storage device which is provided to inmates by their attorneys, courts or other legal representatives.

DOC – Department of Corrections

DOC-237 – Property Receipt/Disposition

DOC-2646 – Use of Digitally Formatted Legal Materials for Inmates

RH – Restrictive Housing

<b>DAI Policy #:</b> 300.00.67	<b>New Effective Date:</b> 05/15/20	<b>Page</b> 2 of 6
<b>Chapter:</b> 300 Administrative		
<b>Subject:</b> Digital Formatted Legal Materials		

## **PROCEDURE**

### **I. Receiving Legal Material in Digital Format**

#### **A. DFLM may be received from:**

1. Courts.
2. Administrative Law Judge.
3. Division of Hearings and Appeals.
4. Attorney(s).
5. Public Defender's Office.
6. Parole Commission.
7. Social Security Office.
8. Military.
9. Exception requests shall be submitted to DOC Legal Counsel for review and approval.

#### **B. Each facility shall designate staff responsible for receiving and processing DFLM.**

#### **C. The inmate shall be notified by the DFLM coordinator/designee of any DFLM received by the facility. A DOC-237 shall not be completed.**

Each facility shall designate staff to review the content with the inmate present to ensure content is legal in nature.

#### **D. If any file is found to contain contraband, the data storage device may be subject to disposal in accordance with DAI Policy 306.00.16 after consultation with Office of Legal Counsel.**

### **II. Permitted DFLM**

#### **A. DFLM shall be permitted into the facility for pending litigation. All other requests shall be considered on a case by case basis. Inmate shall provide sufficient information to justify the need for materials which may be substantiated by staff.**

#### **B. Quantity of DFLM received and stored shall not exceed 25 items. Exceptions shall be considered on a case by case basis by the DFLM Coordinator.**

### **III. Guidelines For Access**

#### **A. A DOC-2646 shall be provided to the inmate for signature. If the inmate refuses to sign the form the inmate shall not be given access to the material and it shall be sent out at the inmate's expense or disposed of.**

#### **B. Each facility shall establish a process identifying the location and supervision requirements for inmates in general population or in RH to view DFLM on stand alone computers.**

<b>DAI Policy #:</b> 300.00.67	<b>New Effective Date:</b> 05/15/20	<b>Page</b> 3 of 6
<b>Chapter:</b> 300 Administrative		
<b>Subject:</b> Digital Formatted Legal Materials		

- C. The inmate shall be provided an opportunity to review the material as soon as reasonably possible after the inmate makes the request. Inmates providing proof of a short deadline shall be prioritized for viewing the material.
- D. Inmates shall be provided time to review DFLM in accordance with guidelines for Law Library use. Additional time may be provided as determined appropriate.

#### **IV. Storage and Removal**

- A. DFLM pertaining to a criminal matter shall be stored at a designated secure location determined by facility procedure until the first criminal appeal as of right pursuant to Wisconsin Statutes s. 809.30 is exhausted in state court.
  - 1. Inmates intending to pursue federal habeas relief following the exhaustion of their first criminal appeal as of right shall inform institution staff in writing.
  - 2. DFLM pertaining to a criminal matter to be reviewed or being reviewed by means of a federal habeas petition shall be stored at a designated secure location determined by facility procedure until the first appeal is exhausted in federal court.
- B. DFLM pertaining to a civil matter shall be stored at a designated secure location determined by facility procedure until the first appeal is exhausted in state or federal court.
- C. The DFLM shall not be stored in the inmate's property.
- D. Once the DFLM is no longer allowed to be stored or the inmate decides it is no longer needed, the material shall be disposed of in accordance with DAI Policy 306.00.16.
- E. If an inmate has been released without their DFLM and cannot be located, the DFLM shall be retained in accordance with Administrative Code DOC 309.20 (4).

#### **V. DFLM Transferred Between Facilities**

- A. The DFLM Coordinator at the sending facility shall ensure the DFLM is clearly identified and transferred via a secure method to the receiving facility.
- B. DFLM shall be handled by staff only.
- C. The receiving facility shall route to the DFLM Coordinator.

#### **VI. Copies**

- A. An inmate may only receive black and white copies of documents/photographs from DFLM. Exceptions may be made if the inmate can provide justification that color is an issue central to his or her case.

<b>DAI Policy #:</b> 300.00.67	<b>New Effective Date:</b> 05/15/20	<b>Page</b> 4 of 6
<b>Chapter:</b> 300 Administrative		
<b>Subject:</b> Digital Formatted Legal Materials		

B. Each facility shall establish a process that defines how an inmate is to request and receive copies of documents from DFLM. The inmate is responsible for the cost of copies.

**VII. Allowed Formats to View Material**

A. DFLM shall be on any data storage device.

B. E-mails to staff containing DFLM are not permitted.

C. DFLM shall be compatible to be viewed in Microsoft Office. Video shall be exported to media in a format, and using a codec, that can be viewed on any computer running Microsoft Windows without the need for special software/viewers to be installed.

D. Laptops shall be allowed to be brought into a facility by the entities listed in Section I.A. to view legal materials with an inmate.

**Administrator's Approval:** \_\_\_\_\_ **Date Signed:** \_\_\_\_\_

Makda Fessahaye, Administrator

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Kettle Moraine Correctional Institution		
<b>Original Effective Date:</b> 3/15/13	<b>DAI Policy Number:</b> 300.00.67	<b>Page</b> 5 of 6
<b>New Effective Date:</b> 01/15/21	<b>Supersedes Number:</b> 300.00.67	<b>Dated:</b> 6/24/19
<b>Chapter:</b> 300 Administrative		
<b>Subject:</b> Digital Formatted Legal Materials		
<b>Will Implement</b> <input type="checkbox"/> As written <input checked="" type="checkbox"/> With below procedures for facility implementation		
<b>Warden's/Center Superintendent's Approval:</b> Warden Jon Noble		

**DEFINITIONS, ACRONYMS AND FORM**DOC-184 – Disbursement RequestDOC-236D – Identification Property Access RecordKMCI – Kettle Moraine Correctional Institution**FACILITY PROCEDURE**

- I. When DFLM is received by staff, the DFLM shall be routed to the Litigation Coordinator/designee.
  
- II. Responsibilities
  - A. The Litigation Coordinator/designee shall:
    1. Document the receipt of the DFLM and forward the item to the Librarian/designee for secure storage in the Librarian/designee's office.
    2. Notify the inmate of receipt of the material in writing and to direct them to contact the Librarian/designee to review.
    3. Complete the DOC-2646.
    4. Route the DFLM, the DOC-2646 and a copy of the written inmate notification to the Librarian/designee.
    5. Send an email to the Property Sergeant/designee to note "DFLM Present" on the outside of the file folder.
  
  - B. The Librarian/designee shall:
    1. Review the DOC-2646 with the inmate to obtain his signature and process it as noted in Section III. A. of the DAI Policy.
    2. Route the DFLM back to the Litigation Coordinator/designee for processing per Section III.A. of the DAI policy if the inmate refuses to sign the DOC-2646.
    3. Review the DFLM with the inmate present to ensure the content is legal in nature as noted in Section III A-D of this DAI Policy.
    4. Schedule all appointments with the inmate to review their DFLM.
    5. Allow the inmate access to the DFLM upon receipt of a written request for such action from the inmate.
    6. Respond within five working days of receiving the inmate's written request with the date/time to review the approved DFLM.
    7. Retain a copy of any appointment notifications in the inmate's DFLM file.
  
  - C. The Warden shall approve/deny requests for colored copies.

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Name Kettle Moraine Correctional Institution		
<b>New Effective Date:</b> 11/23/20	<b>DAI Policy Number:</b> 300.00.59	<b>Page</b> 6 of 6
<b>Chapter:</b> 300 Administrative		
<b>Subject:</b> Digital Formatted Legal Materials		

- III. When the DFLM is not in use it shall be secured, along with the signed DOC-2646 and any additional correspondence related to it, in the Librarian/designee's office.
  
- IV. Inmate's Release or Transfers
  - A. Upon notification of an inmate's release or transfer, the Property Sergeant/designee shall notify the Librarian/designee to allow the DFLM to be processed and sent out.
  
  - B. The Librarian/designee shall notify the Litigation Coordinator/designee of an inmate's impending departure to update the DFLM spreadsheet.
  
  - C. When the inmate is released from KMCI, the Librarian/designee shall send the DFLM to Property to be issued to the inmate at the time of his release.
  
  - D. When the inmate is transferred to another facility, Librarian/designee shall send the DFLM to Property for placement in the DOC-236D prior to transfer.