

 <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 9
	Original Effective Date: 11/01/91	New Effective Date: 03/16/20
	Supersedes: 309.51.01	Dated: 01/01/13
	Administrator's Approval: Makda Fessahaye, 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		
Guidance Document	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Posting date 03/09/20

POLICY

The Division of Adult Institutions (DAI) shall loan inmates 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 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, 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 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

Executive Directive 72- Sexual Abuse and Sexual Harassment in Confinement

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DEFINITIONS, ACRONYMS AND FORMS

BOCM – Bureau of Offender Classification and Movement

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

CCE – Corrections Complaint Examiner

DAI – Division of Adult Institutions

DOC – Department of Corrections

DOC-184 – Disbursement Request

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-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 disbursed by the facility for the benefit of an inmate.

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.

Legal Loan – Lending of funds or supplies by the DOC to an inmate for the purpose of litigation expenses, with the expectation and requirement that the inmate repay the loan or subsidy.

PACER – Public Access to Court Electronic Records

PREA – Prison Rape Elimination Act

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TRIP -Tax Refund Intercept Program

WCCA – Wisconsin Circuit Court Access

WICS– Wisconsin Integrated Corrections System

PROCEDURE

I. General

- A. Legal loan can be used for correspondence to courts, Attorney General for Notice of Claims, attorneys, parties' in litigation, inmate complaint review system under ch. 310 or the parole commission related to themselves.
- B. Legal loans shall be provided to an inmate without sufficient funds in his/her regular account up to \$100 annually to purchase:
 1. Supplies to include paper, writing utensil and data storage device.
 2. Photocopies.
 3. Postage for correspondence.
- C. Funds in an inmate's regular account at the time of purchase shall be utilized prior to the loan being charged.
- D. Inmates 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 the inmate's 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. Inmate monies shall be applied as outlined in DAI Policy 309.45.02 for repayment of unpaid legal loans.
- I. The facility shall charge the amount loaned under this subsection to the inmate's general account for future repayment.
- J. Inmates shall only use the legal loan supplies provided to him/her for their own legal work.
- K. Inmates shall reapply for each legal loan at the beginning of each calendar year and also if transferred to another facility.

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II. Loan Approval and Denial

- A. Inmates applying for a legal loan shall fully complete and submit a DOC-1290 for each matter a loan is requested.
- 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 has reason to believe the mail contains contraband for mail addressed to an ICE or CCE, the inmate shall allow facility staff to open the envelope in the inmate's presence or the inmate shall be denied access to legal loan funds for that mailing.
- C. Inmates may not exceed an open legal loan amount of \$100 annually without Warden's approval and demonstrates an extraordinary need in one of the following areas:
1. The inmate is defending himself or herself against a pending criminal charge and is unrepresented by counsel in that case. WCCA/PACER may be utilized to verify assigned counsel.
 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 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 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 post-conviction motion under Wisconsin Statutes s. 974.06 in a given case and is unrepresented by counsel in that proceeding.

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6. The inmate has 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.
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 himself or herself against a pending termination of parental rights case and is unrepresented by counsel in that case.
10. The inmate is representing himself or herself in a first appeal of a termination of parental rights and is unrepresented by counsel in that appeal.
11. The inmate is named as an active defendant or respondent 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 28 U.S.C. § 1915(a) (2) and Wis. Stat. § 814.29(1m)(h).
13. The inmate seeks to access the ICRS under Wisconsin Administrative Code Ch. DOC 310.
14. The inmate seeks to submit a DOC-1292 to the BOCM Director.
15. The inmate seeks to submit documents or correspondence to the Parole Commission.
16. The inmate is filing his/her first federal habeas case for a state court conviction.
17. Court order requiring submission of specified documents.
18. The inmate is mailing a "Notice of Claim" to the Attorney General.

D. If a loan is denied, staff shall inform the inmate 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 inmates 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. Inmates 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 inmate personal legal documents.
- E. Inmates shall 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.

IV. 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 WICS and apply inmate funds toward repayment of legal loans in accordance with DAI Policy 309.45.02.
- D. Track amount of legal loans annually.
- E. Pursue repayment of legal loan balances pursuant to Wisconsin Statutes s. 301.328.
- F. Pursue repayment of legal loan balances via TRIP.

V. Inmates Shall:

- A. Complete and submit a DOC-1290 for each legal loan each calendar year.
- B. Provide any additional documentation requested by the Warden/designee.
- C. Keep track of the amount remaining of their legal loan in anticipation of reaching the \$100 cap, inform the court and opposing counsel, if necessary.

Administrator's Approval: _____



Date Signed: 02/28/20

Makua Tessaia, Administrator

DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES

Facility: Wisconsin Correctional Center System		
Original Effective Date: 11/01/91	DAI Policy Number: 309.51.01	Page 7 of 9
New Effective Date: 08/06/20	Supersedes Number:	Dated:
Chapter: 309 Resources for Inmates		
Subject: Legal Loans		
Will Implement <input type="checkbox"/> As written <input checked="" type="checkbox"/> With below procedures for facility implementation		
Warden's/Center Superintendent's Approval: /s/ Quala Champagne		

DEFINITIONS, ACRONYMS, AND FORMS

TRIP – Tax Refund Intercept Program

WCCS – Wisconsin Correctional Center System

PROCEDURE

I. WCCS center Superintendents shall assign a supervisory staff member to be the reviewing authority of legal loans at their center and notify inmates as to where to send a DOC-643 requesting a legal loan interview.

II. INMATE RESPONSIBILITIES

- A. Submit a DOC-643 requesting a legal loan interview to the designated staff member at the center.
- B. Bring completed and unsigned DOC-1290 for each legal loan to interview, along with any supporting documentation.
- C. Write the case number on each legal loan DOC-0184.
- D. Requests to exceed the legal loan limit must be submitted directly to the center Superintendent with the supporting documentation.

III. CENTER STAFF RESPONSIBILITIES

- A. All center staff shall:
 1. Receive written approval from the Security Director before opening any mail suspected of containing contraband when addressed to an ICE, a CCE, an attorney, the Attorney General or the Assistant Attorney General of Wisconsin, or the clerk or judge of any state or federal court.
 2. Ensure inmates use his/her legal supplies, photocopies, and postage to do only his/her own legal work.
- B. Designated staff member shall:

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1. Schedule an interview with the inmate upon request.
 2. Witness inmate signature on DOC-1290 and submit to assigned center reviewing authority for legal loans.
 3. Notarize the signature of an inmate claiming alleged imminent danger.
 4. Review the completed DOC-1290 and determine legal loan eligibility or ineligibility.
 5. Request any additional documentation from the inmate as needed to determine eligibility.
 6. Submit any DOC-1290 requests that exceed the legal loan limit to the center Superintendent for approval or denial of loan amount prior to approval or denial of the legal loan request. If the center Superintendent's decision is to deny the request to exceed the loan amount, the legal loan shall be denied.
 7. Complete the DOC-1290 approval/denial section:
 - a. Check "Approve", "Approve in Part", or "Deny".
 - b. Enter pertinent comments.
 - c. Sign, print name, and date.
 - d. Submit the original completed DOC 1290 and any supporting documentation to the Business Office and provide a copy to the inmate.
 - e. Maintain a file copy of the DOC-1290 and any supporting documentation used to determine eligibility.
 - f. Before approving each legal loan DOC-0184, ensure:
 - i. The DOC-0184 includes the case and/or complaint number.
 - ii. There is an approved DOC-1290 on file for the current year.
 - iii. The amount does not exceed the remaining unspent legal loan balance.
- C. The center Superintendent shall:
1. Review legal loan cases where requested loan amount exceeds the legal loan limit.
 2. When the center Superintendent approves exceeding the legal loan limit, he/she shall:
 - a. Return DOC-1290 to reviewing authority for processing.

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- D. Attach justification for exceeding the legal loan limit to the DOC-1290
 - b. Email the DOC WCCS Business Office group email box to include the inmate name, DOC number, case number, and authorized amount to exceed the limit.
3. When the center Superintendent denies the request to exceed the legal loan limit, he/she shall:
 - a. Return DOC-1290 to reviewing authority for processing.
 - b. Attach justification for decision not to exceeding the legal loan limit to the DOC-1290.

IV. BUSINESS OFFICE RESPONSIBILITIES

- A. File the original DOC-1290 and any authorization to exceed the legal loan limit by calendar year where all Business Office staff can access the information.
- B. Review legal loan DOC-0184 Disbursement Requests and ensure an approved DOC 1290 is on file before processing legal loan transactions.
- C. Contact the center for any DOC-0184's that are incomplete or lack a case number.
- D. Notify the center when the approved legal loan available balance has been reached.
- E. Pursue repayment of outstanding loans through the agent and TRIP after the inmate is release.