



# WISCONSIN DEPARTMENT OF CORRECTIONS

Governor Tony Evers / Secretary Kevin A. Carr

## GUIDANCE DOCUMENT CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections §227.10 and §227.11 of the Wisconsin Statutes.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated.

I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

\_\_\_\_\_  
Jason Benzel

Name of Individual Certifying this Document / Proposed Document

\_\_\_\_\_  
Warden of Dodge Correctional Institution

Title


\_\_\_\_\_  
*Jason Benzel*

Signature

\_\_\_\_\_  
6-11-2020

Date Signed

Department of Corrections – Wisconsin  
Office of the Secretary  
Wis. Stat. § 227.112(6)  
DOC-2910 (Rev. 12/2019)

 <div style="text-align: center;"> <b>DIVISION OF ADULT INSTITUTIONS</b>   <b>POLICY AND PROCEDURES</b> </div>	<b>DAI Policy #:</b> 309.51.01	<b>Page</b> 1 of 10
	<b>Original Effective Date:</b> 11/01/91	<b>New Effective Date:</b> 03/16/20
	<b>Supersedes:</b> 309.51.01	<b>Dated:</b> 01/01/13
	<b>Administrator's Approval:</b> Makda Fessahaye, Administrator	
	<b>Required Posting or Restricted:</b> <input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted	
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		
<b>Guidance Document</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Posting date</b> 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

<b>DAI Policy #:</b> 309.51.01	<b>New Effective Date:</b> 03/16/20	<b>Page</b> 2 of 10
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		

**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

<b>DAI Policy #:</b> 309.51.01	<b>New Effective Date:</b> 03/16/20	<b>Page</b> 3 of 10
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		

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.

<b>DAI Policy #:</b> 309.51.01	<b>New Effective Date:</b> 03/16/20	<b>Page</b> 4 of 10
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		

## **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.
  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.



<b>DAI Policy #:</b> 309.51.01	<b>New Effective Date:</b> 03/16/20	<b>Page</b> 5 of 10
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		

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.
  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.

<b>DAI Policy #:</b> 309.51.01	<b>New Effective Date:</b> 03/16/20	<b>Page</b> 6 of 10
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		

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.

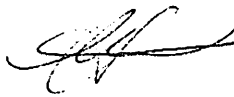
#### **V. Inmates Shall:**

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: \_\_\_\_\_



Makua Rossa, Administrator

Date Signed: 02/28/20 \_\_\_\_\_

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Dodge Correctional Institution		
<b>Original Effective Date:</b> 11/6/00	<b>DAI Policy Number:</b> 309.51.01	<b>Page</b> 7 of 10
<b>New Effective Date:</b> 6/22/2020	<b>Supersedes Number:</b>	<b>Dated:</b>
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		
<b>Shall Implement</b> <input type="checkbox"/> <b>As written</b> <input checked="" type="checkbox"/> <b>With below procedures for facility implementation</b>		
<b>Warden's/Center Superintendent's Approval:</b> 		

**REFERENCES**

Wisconsin Administrative Code Ch. DOC 303 - Discipline  
DAI Policy 309.56.01 – Technology

**DEFINITIONS, ACRONYMS AND FORMS**

DOC-761 – Interview/Information Request

DOC-2386 – Loan Supplies Requisition Form

**FACILITY PROCEDURE****I. General Guidelines**

- A. Any inmate using the supplies for purposes other than legal activities or giving these supplies to another inmate, may be subject to discipline under Wisconsin Administrative Code ch. 303.
- B. The cost of supplies may change without prior notice.
- C. When supplies are low and demand is high, the Business Office reserves the right to distribute some supplies to each requestor to allow each inmate requesting supplies to receive a partial order.
- D. Use of legal loan funds shall be monitored by the Business Office to determine appropriate use of legal loan funds. It is the inmate's responsibility to prioritize his spending to meet his legal needs.

**II. Process for Requesting a Legal Loan and Review for Approval or Denial**

- A. Inmates shall submit a DOC-761 to the Business Office to request a DOC-1290.
- B. Upon receipt of the DOC-761 for a DOC-1290, the Business Office shall provide the inmate with that form, a copy of the DAI Policy 309.51.01 along with DCIs attached procedure and a DOC-2386.
- C. Inmates shall submit a signed DOC-1290 to the Business Office for each case/complaint for which a legal loan is requested.
- D. The DOC-1290 shall be notarized if the inmate is claiming imminent danger.



**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Dodge Correctional Institution		
<b>New Effective Date:</b> 6/22/2020	<b>DAI Policy Number:</b> 309.51.01	<b>Page</b> 8 of 10
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		

- E. Once a completed DOC-1290 is received, the loan request shall be reviewed in accordance with Section II.B. of this DAI policy.
- F. The inmate shall receive a copy of the DOC-1290 indicating its approval or denial. If denied, there shall be a written explanation for the denial.
- G. The Business Office shall log all legal loan approvals and denials on a spreadsheet to be shared with the DCI Librarian(s).

**III. Loan Approvals****A. Legal Photocopies**

1. Requests for legal copies shall be sent to the Business Office for approval or denial.
2. Requests for legal loan photocopies shall be submitted on a DOC-184 and include a complete and accurate citation of the applicable case number and jurisdiction for which the copies are being made.
3. Approved requests shall be signed by Business Office staff and forwarded to the Library for completion.
4. Librarians shall determine the appropriate cost and return the original DOC-184 to the Business Office and route the yellow copy to the inmate along with his copies.
5. No more than the legally required number of photocopies/printouts shall be made.
6. Request for legal loan printouts off a data storage device may be submitted directly to the Library for approval.
7. If request for photocopies are for use as exhibits, attachments, etc., the document in which they are referenced shall accompany the request for verification purposes.
8. Photocopying of legal research material is prohibited under legal loan procedure.
9. Blank legal forms shall not be photocopied using legal loan. Once the form is completed and is ready as correspondence with parties listed in DOC Administrative Code 309.51, it can then be submitted for photocopying.

**B. Legal Supplies**

1. A completed and signed DOC-2386 and DOC-184 shall be submitted for each supply order.
2. Supplies shall be limited to: 100 sheets of paper total (2 lined pads, 100 sheets of typing paper or 1 lined pad and 50 sheets of typing paper), 10 sheets of carbon paper, 2 pens, 10 - #10 envelopes and 3- 10"x13" manila envelopes per week.
3. Pens shall not be issued to inmates in Restrictive Housing.
4. Each page and envelope shall be stamped with the inmate's DOC number for identification purposes and shall also be stamped with "Legal Loan."
5. Supplies shall be sent to the unit where the inmate is located and shall be delivered by the unit officer.

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Dodge Correctional Institution		
<b>New Effective Date:</b> 6/22/2020	<b>DAI Policy Number:</b> 309.51.01	<b>Page</b> 9 of 10
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		

6. The original DOC-2386 shall be attached to the packet and the issuing officer and the receiving inmate shall sign the DOC-2386 upon delivery of the supplies.
7. The signed receipt shall then be forwarded to the Business Office.
8. A new DOC-2386 shall be included with the supplies.
9. One supply order per inmate per week may be processed. Orders shall be received by Monday in order to be filled by Friday.
10. If it appears more legal supplies have been ordered than have been used, a reduced amount of supplies may be sent.

**C. Legal Loan Postage**

1. Mail requiring legal loan postage shall be sent to the Business Office in an unsealed envelope, unless it is exempt in accordance with Section III.C. of this DAI Policy. A completed DOC-184 including complete address, case or inmate complaint number and the inmate's signature shall accompany each envelope.
2. If approved, Business Office staff shall sign and date the DOC-184 form and forward to the mailroom for postage and mailing.
3. Mailroom staff shall determine the appropriate postage cost and return the white original of the DOC-184 to the Business Office for posting to the inmate's account in WICS.
4. Mailroom staff shall send the yellow copy of the DOC-184 to the inmate.

**D. Data Storage Device – Inmate requests to purchase and use a data storage device shall be facilitated in accordance with DAI Policy 309.56.01.****IV. Legal Loan Denial**

- A. If a legal loan DOC-184 is denied, the Business Office or Librarian shall sign and date the DOC-184 and return any paperwork to the inmate stating the reason for denial.
- B. Removal/Suspension from Legal Loan
  1. The Financial Program Supervisor or designee shall periodically review the financial status of inmates with active legal loans.
  2. Inmates with sufficient resources to pay for their legal correspondence needs shall have their legal loan discontinued.
  3. To be considered for a legal loan again within the current calendar year, inmates shall reapply in writing to the Business Office.
  4. A new DOC-1290 does not need to be signed unless it is a new case that the inmate has not already been approved for.
  5. If an inmate has spent money on canteen items that are not legal correspondence supplies while on a legal loan, the inmate shall have his legal loan suspended for a minimum of 30 days.

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

<b>Facility:</b> Dodge Correctional Institution		
<b>New Effective Date:</b> 6/22/2020	<b>DAI Policy Number:</b> 309.51.01	<b>Page</b> 10 of 10
<b>Chapter:</b> 309 Resources for Inmates		
<b>Subject:</b> Legal Loans		

- C. If an inmate submits a DOC-184 for a legal loan to pay for postage and is not indigent, the Business Office shall note "not indigent" on the request and forward it to the Mailroom for processing.

**V. Extension**

- A. It is the inmate's responsibility to prioritize his legal needs to not exceed the annual \$100 limit.
- B. Requests for legal loans exceeding the \$100 annual limit shall be submitted with supporting documentation to the Warden/designee each time and shall meet the criteria noted in Section II.C. of this DAI policy.
- C. A court order does not necessarily demonstrate a need.
- D. Photocopy requests shall not be processed unless there is a legal requirement or court order.
- E. Writing supplies shall be exhausted prior to the issuing of additional supplies under the legal loan extension.

**VI. General**

- A. Any inmate using the supplies for purposes other than legal activities or giving these supplies to another inmate, may be subject to discipline under Wisconsin Administrative Code ch. 303.
- B. The cost of supplies may change without prior notice.
- C. When supplies are low and demand is high, the Business Office reserves the right to distribute some supplies to each requestor to allow each inmate requesting supplies to receive a partial order.
- D. Use of legal loan funds shall be monitored by the Business Office to determine appropriate use of legal loan funds. It is the inmate's responsibility to prioritize his spending to meet his legal needs.