

22 AAC 05.520 is repealed and readopted to read:

**22 AAC 05.520. Mail.** (a) A prisoner may send or receive mail through the United States Postal Service and, except as limited in this section, may correspond with anyone. The department may place limits on the amount of incoming and outgoing mail sent or received by a prisoner conducting apparent business activities. The department shall

(1) inspect and review all prisoner mail for contraband or other materials limited or prohibited by this section;

(2) destroy incoming or outgoing mail if the sender cannot be identified;

(3) return incoming mail to sender if recipient cannot be identified;

(4) deliver mail in such a manner as to ensure it is received by the intended recipient only;

(5) divide mail into the following categories:

(A) privileged mail;

(B) prisoner-to-prisoner mail;

(C) general mail; and

(6) forward all mail received for transferred or released prisoners for one year following the transfer or release.

(b) Mail is not considered to be received until after the department has made an examination for contraband, not to exceed 48 hours, excluding holidays and weekends. Outgoing mail shall be collected from designated mailboxes at least once each weekday, excluding holidays.

(c) Mail shall be designated as privileged under (a)(5)(A) of this section if the mail is clearly marked as coming from and is from an individual or organization listed in this subsection. Incoming privileged mail shall be opened in the presence of the prisoner and only to searched for

contraband. Except for mail containing official legal documents under (5), (8), (9), (10), (12), (13), and (14) of this subsection, incoming privileged mail shall not be read for content, but may be photocopied and the original destroyed upon the prisoner's verification that no pages are missing from the copy. Photographs will be copied in color; all other documents in black and white. If there is substantial doubt as to whether mail is privileged the procedures of this subsection apply, unless at the time of inspection it is determined not to be privileged mail. Outgoing privileged mail may not be read for content but the department may inspect the mail for contraband in the prisoner's presence and verify that the ultimate intended recipient is the privileged addressee. Mail to or from the following persons or organizations is privileged:

- (1) governor of Alaska;
- (2) attorney general of Alaska;
- (3) members of the United States Congress for Alaska;
- (4) Alaska legislators;
- (5) any court in Alaska or of the United States;
- (6) commissioner, Alaska Department of Corrections;
- (7) chairman, Alaska Board of Parole;
- (8) ombudsman for the State of Alaska;
- (9) any attorney licensed to practice in the United States;
- (10) physician of record for the prisoner;
- (11) division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development;
- (12) Alaska Human Rights Commission;

(13) any organization that assists persons in the exercise of their legal rights, such as the American Civil Liberties Union, National Prison Law Project, or Alaska Legal Services Corporation;

(14) Division of Elections, Office of the Governor;

(15) the grievance and facility standards administrator for the department;

(16) the Americans with Disabilities Act (ADA) coordinator in the state Department of Labor and Workforce Development, Division of Vocational Rehabilitation.

(d) The department may inspect for content any mail designated under (a)(5)(B) of this section. When prisoner-to-prisoner mail is read, the department shall provide the receiving prisoner with a written notice stating that the mail was read due to its status as prisoner-to-prisoner mail, and that future reading of mail between those prisoners may occur without notice. Mail between prisoners may be restricted on a case-by-case basis when restriction is required for an individual's safety or the security of an institution. Any restriction under this subsection must be no broader than necessary to address the safety or security concern.

(e) The department may open mail designated under (a)(5)(C) of this section out of the presence of the prisoner to

(1) search for contraband;

(2) inspect the content for any prohibited materials or any content threatens an individual's safety or the security of the facility; and

(3) photocopy the envelope and contents; if the envelope and its contents are copied, the prisoner will receive only a black-and-white copy and the department shall store the originals in a secure location for seven working days before destroying them.

(f) A prisoner may not send or receive prohibited mail. An attempt to send prohibited mail may subject the prisoner to disciplinary proceedings. Except as otherwise provided in this chapter, the department may inspect mail for content and refuse to deliver mail upon reasonable grounds to believe that the content is prohibited or threatens an individual's safety or the security of the facility. Mail that is deemed to pose a safety or security risk to the institution shall be photocopied before being disposed of and the department may place a copy of any material that is prohibited under this section in a prisoner's case record. Material from incoming or outgoing mail that is not prohibited under this section may not be placed in a prisoner's case record unless it has been lawfully observed by an employee of the department and is relevant to an assessment of the prisoner's facility adjustment or rehabilitative progress. The department must notify a prisoner within two working days after the placement of a copy of material from outgoing mail into the prisoner's record. If the department inspects mail for content or does not deliver incoming mail to a prisoner or send the outgoing mail from a prisoner, the department shall

(1) within two working days after receipt by the facility, send the prisoner and the addressee, except for a publisher of printed material, a written notice, signed by the superintendent, stating the reason why the mail was read, not delivered to the prisoner, or returned to the sender; and

(2) the prisoner may file a grievance under 22 AAC 05.185.

(g) The department will hold incoming mail containing unauthorized property or prohibited material as contraband. A prisoner has 15 days to arrange to have the material returned to the sender at the prisoner's expense or have the item or items destroyed. The department may dispose of any incoming mail containing unauthorized property or prohibited material 30 days after it is received under (b) of this section.

(h) Incoming and outgoing mail must meet the following requirements:

(1) except for mail received directly from an approved vendor, publisher, treatment facility, or health care provider, or marked as privileged mail, the department shall return mail, unopened, to the sender and notify the prisoner of the return if the mail is sent inside an envelope that:

(A) is not white;

(B) is larger than 9x12 inches;

(C) is not commercially produced;

(D) is made of cardboard, padded, corrugated, or tear-resistant material;

(E) is constructed of heavyweight paper or with a security screening feature;

(F) has an item, other than necessary postage, affixed with an adhesive, including an address label, sticker, or stamp, unless the item was affixed by the U.S. Postal Service; or

(G) has a drawing or marking other than an address;

(2) for outgoing mail, the prisoner must use an envelope that meets the criteria in this subsection for incoming mail envelopes; the only writing or items permitted on the outgoing mail envelope are

(A) the prisoner's address, which consists of the prisoner's committed name, offender number, and return address;

(B) the addressee's name and address; and

(C) sufficient U.S. postage;

(3) except for mail received directly from an approved vendor, publisher, treatment facility, or health care provider, or marked as privileged mail all incoming mail, whether privileged, prisoner-to-prisoner, or general, must be on white paper or white lined paper; mail may not be written on heavy weight paper or construction paper;

(4) a prisoner may not receive more than ten photographs a day; photographs must

(A) not be greater than 4" x 6" in size;

(B) not have a magnetic or adhesive backing;

(C) come directly from a department-designated vendor; and

(D) not violate the content restrictions in this section;

(5) a prisoner may not send or receive digital, magnetic, or optical media or data storage devices, except a prisoner may send or receive media or data storage devices as part of privileged mail under (a)(5)(A) of this section; if a prisoner receives a privileged media or data storage device

(A) the department shall send the privileged media or data storage device to prisoner property and provide the prisoner with a seizure notice of the media or data storage device annotating it was sent to prisoner property; and

(B) the prisoner must formally request to access and view media or data contained in the storage device;

(6) subject to monthly deposit limits and restrictions on checks from governmental agencies, tribal entities, and businesses established by the department, a prisoner may only receive monetary gifts sent on a cashier's check or money order through the U.S. Postal Service that contain the sender's name on the cashier's check or money order and the

sender is on the prisoner's approved visitor list or a verified immediate family member; the department shall

- (A) forward a money order or cashier's check to the Offender Trust Account for processing and deliver a receipt to the prisoner;
- (B) dispose of anonymous donations and cash pursuant to 22 AAC 05.070;
- (C) return monetary instruments that do not meet the department's requirements to the sender at the prisoner's expense and the intended prisoner recipient shall be notified of the rejection of mail, including the reasons;

(7) all non-indigent prisoners must pay the postage for outgoing mail; an indigent prisoner may mail, at the department's expense, up to five pieces of mail per week, weighing up to two pounds each, unless the prisoner has a special need to send additional mail that would be privileged, including for pending litigation; a prisoner may send mail certified or registered when required to serve a summons and complaint for a legal proceeding;

(8) a publication must adhere to the same requirements as established for incoming mail, including

- (A) media that has an affixed parental advisory label indicating explicit content;
- (B) electronic games; an electronic game that is rated adults only, mature, or otherwise labeled with descriptors indicating the inclusion of content is unacceptable as defined in (i) of this section.

(i) An inmate may not send or receive prohibited mail. The following mail is prohibited:

- (1) incoming mail that
  - (A) does not have a return address that contains at least

(i) the sender's first initial and full last name; and

(ii) the sender's address;

(B) has unauthorized or insufficient postage;

(C) contains additional mail from outside the sender's immediate family;

(D) is taped, pasted, or otherwise joined to another item, unless taped by security staff;

(E) includes drawings or written content in a medium other than blue or black ink or graphite pencil;

(F) has glitter, stamps, stickers, or anything affixed to the paper with an adhesive;

(G) is a non-commercially produced or multi-fold greeting card, greeting card made of non-standard card stock paper, greeting card that has embellishments, or a greeting cards that exceeds 6x8 inches in size;

(H) contains lipstick or a foreign or unknown substance, including an unusual stain, body fluid, perfume, incense, or oil;

(I) is written with or contains, gel pen ink, crayon, marker, colored pencil, colored paper, correctional fluid or tape, paint, warped paper, or powder;

(J) contains sexually explicit material;

(K) contains a personal check or cash, or solicits gifts, money, credit, or a contractual purchase, except for contractual purchases for materials authorized under 22 AAC 05.510, without the approval of the commissioner or designee;

(L) contains any item designated as contraband;



(M) contains material that could reasonably be expected to aid an escape or incite or encourage any form of violence;

(N) contains a hard-bound book or leather-bound book, including a Bible;

(O) contains material prohibited under 22 AAC 05.510(b);

(P) contains tattoo information or a tattoo template;

(Q) contains a non-privileged electronic media storage device;

(R) is written on heavy weight paper or construction papers;

(2) outgoing mail that

(A) contains a plan or threat of physical harm against a person or other criminal activity;

(B) contains contraband, a plan for sending contraband into or out of the institution, or indicates another activity prohibited under 22 AAC 05.400;

(C) is in code and the contents of the mail cannot be understood by the reader;

(D) solicits gifts, money, credit, or a contractual purchases without prior approval of the department;

(E) purports to represent a business firm, or appears to be intended to conduct any type of business operation, unless authorized by the commissioner or designee;

(F) contains personal or financial information that presents a significant threat to the prisoner if the information is discovered by another prisoner, including a bank statement or bank card, social security card, or birth certificate unless authorized by

the commissioner or designee; the department shall place a confidential document under this subparagraph in the prisoner's property and inform the prisoner of receipt;

(G) contains information that, if communicated, would create a risk of mental or physical harm to a person;

(H) contains material prohibited under 22 AAC 05.510(b);

(I) is unnecessarily written on state documents such as a Request for Interviews or Commissary Request Form or similar instrument;

(J) includes correspondence from any other prisoner inside an additional envelope or requests a recipient to forward correspondence beyond the immediate addressee; or

(K) is in violation of a court order. (Eff. 9/10/77, Register 63; am 1/9/87, Register 101; am \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 33.30.011 AS 33.30.015 AS 33.30.021  
AS 44.28.030

22 AAC 05.660(a) is amended by adding a new paragraph to read:

(42) "sexually explicit material" means a publication, drawing, photograph, film, negative, motion pictures, figure, object, novelty device, recording, transcription, or any book, leaflet, catalog, pamphlet, magazine booklet or other item, the cover or contents of which

(A) pictorially depicts nudity of any gender; including

(i) frontal nudity that depicts the genitalia of any gender or a female breast, nipple, or areola, whether unclothed or visible through clothing;  
and

(ii) rear nudity that depicts the buttocks or anus of any gender, whether unclothed or visible through clothing; or

(B) graphically depicts through text any sexually explicit, homosexual, heterosexual, or auto-erotic sex acts including

(i) fellation;

(ii) cunnilingus;

(iii) masturbation;

(iv) sadism or sadomasochism;

(v) bondage;

(vi) bestiality;

(vii) excretory functions; or

(viii) sexual activity involving children, an unwilling participant, or a participant who is the subject of coercion. (Eff. 9/10/77, Register 63; am 8/30/80, Register 75; am 11/3/84, Register 92; am 1/9/87, Register 101; am 11/13/99, Register 152; am 1/13/2012, Register 201; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

Authority: AS 01.10.080 AS 33.30.011 AS 33.30.901  
AS 11.56.390 AS 33.30.021 AS 44.28.030  
AS 33.20.050