

LEGAL SERVICES

STANDARD NO(S):

NYSSA #

DATE:

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REFER TO:

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I. POLICY:

It is the policy of the Seneca County Correctional Facility that each inmate will have access to legal services including legal counsel, reference materials and supplies in accordance with section 7031 of the New York State Minimum Standards.

II. DETAILS:

A. Definitions:

For the purposes of this policy, the following definitions will apply:

1. Legal services will include access to:
 - a. legal counsel
 - b. legal reference materials and supplies
 - c. notary public
 - d. other legal assistance
2. Legal Counsel will mean:
 - a. Any attorney authorized to practice law in New York State or in any jurisdiction where an inmate has a legal action, proceeding or other legal matter pending.
 - b. A law student, law clerk, or paralegal acting under the supervision of and with the written authorization of an attorney who meets the requirements of paragraph (a) of this section.

B. Procedure:

1. General Information –
 - a. Each inmate will be entitled to legal services for the purpose of legal preparation with respect to any civil or criminal action or proceeding including, but not limited to, disciplinary charges, complaints and grievances.

- b. Except as otherwise provided in this section, in the discretion of the Chief Administrative Officer, inmates may be entitled to representation by legal counsel at disciplinary proceedings, or other facility decision making processes.
- c. Legal counsel to which inmates are entitled need not be provided at facility expense.

2. Access to Legal Counsel –

- a. All inmates will have access to legal counsel. Such access will include telephone communications and visits between inmates and their legal counsel at times not unduly disruptive of facility routine.
- b. Visits or telephone communications between inmates and their legal counsel will not be monitored except visually.
 - 1. Inmates will be allowed to consult with their legal counsel in either the Booking interview room, contact visitation room or a non-contact visitation booth and per procedures outlined in the policy entitled visitation.
 - 2. If the Booking interview room is not available when such legal consultations requested, legal consultations may take place in contact visitation or non-contact visitation booths upon Shift Supervisor approval. Legal counsel, at their discretion, may request a non-contact consultation. Requests which would unduly disrupt facility operations will be rescheduled.
- c. Visits or telephone communications between inmates and their legal counsel will not be considered as compliance with nor satisfaction of any visitation or telephone calls an inmate is entitled to pursuant to the sections “Visitation” or “Inmate Telephones” in this manual or other applicable provision of the law.
- d. All inmates will be entitled to use the inmate phone system to make that number of completed telephone calls necessary to contact and retain legal counsel. Indigent inmates will be entitled to make such calls at facility expense.
- e. Except as otherwise provided by law, long distance telephone calls by inmates to retain or consult with legal counsel will be made collect. At the discretion of the Chief Administrative Officer or designee, arrangements may be made to permit

- f. Incoming legal calls for inmates will be handled by the Booking Officer. The Booking Officer will obtain the inmate's name to be contacted, the attorney's name, and the return call number. Once the Booking Officer has verified that the attorney information is genuine via the attorney registry kept in Booking and/or call-back, the information will be forwarded to the appropriate Housing Unit Officer. After receiving the information, the Housing Unit Officer will forward the information to the inmate and allow them to contact their attorney using the inmate phone system.
- g. In any case where an attorney cannot be reached using the inmate telephone system, the Housing Unit Officer will notify the Shift Supervisor who will work to safely and reasonably resolve the matter. Requests which unduly disrupt facility operations will be rescheduled and in cases where the provided attorney information cannot be verified, will be denied until such verification is obtained.

3. Mutual Inmate Legal Assistance –

- a. Inmates will be permitted to meet for the purpose of discussing and preparing legal matters at times not unduly disruptive of facility routine.
 - 1. Inmates will notify their Housing Unit Officer of any desired mutual legal assistance. It will be at the Housing Unit Officer's discretion when to allow inmates to meet for the purposes defined. Inmates will be allowed to meet in their housing unit's multi-purpose area. Should inmates from separate housing units request to meet, it will be the requesting inmate's Housing Unit Officer's decision as to which multi-purpose room will be used, and which inmate will be escorted to said room. At Shift Supervisor discretion, alternative areas may be used, such as contact visitation and non-contact visitation, for those instances of mutual inmate legal assistance where the classification status or other factors preclude the safe use of the housing unit multi-purpose rooms.
- b. No inmate will receive payment, benefit or consideration in any form from an inmate for providing such inmate legal assistance. Any inmate found to be in violation of the provisions of this subdivision will be subject to disciplinary action.

- c. Inmates desiring to exchange personal legal materials must complete form CF-019 (General Inmate Request) seeking the approval of the Chief Administrative Officer. Consenting inmates will be allowed to exchange personal legal materials upon the written approval of the Chief Administrative Officer.

4. Access to Legal Material –

- a. Consistent with the requirements of this section, the facility will provide inmates access to current legal reference materials. A minimum of one (1) copy of the following legal reference materials will be maintained within the facility and will be available to inmates upon written request using the appropriate section of Form CF-028 (Request for Legal Material). The Housing Unit Officer will arrange for an Escort Officer to retrieve the requested legal reference materials and the inmate will be required to sign as to the condition of the material before and after its use. Damage of any requested materials will result in the loss of privileges, disciplinary action including restitution, criminal charges, or any combination thereof. Requested legal reference materials will be reviewed in the law library or, if unavailable, the common area of the Housing Unit.

1. Correction Law Annotated
2. Penal Law Annotated
3. Criminal Procedure Law Annotated
4. Title 9 of the Official Compilation of Codes Rules and Regulations of the State of New York Subtitle AA (Minimum Standards)
Note: A copy of the minimum standards will be maintained in each housing unit at the officer's station
5. Legal Dictionary
6. Criminal Procedure Law Form Book
7. Title 42 of the United States Code, Section 1983 Treatise
8. Criminal Law Case Law Digest
9. Prison(ers) Case Law Digest
10. United States and New York State Constitution
11. Prisoner's Rights Treatise
12. Civil Practice Law and Rules Annotated
13. Title 42 of the United States Code Annotated, Sections 1981-1988
14. Title 18 of the United States Code Annotated, Sections 4001-4321
15. Legal Research Treatise

- b. Inmates wishing to use the legal library computer terminal in their housing unit law library must complete Form CF-028 (Request

_____. Approval of all such requests will be at the discretion of the Housing Unit Officer who will schedule all such use in the interest of the safe and secure operation of the facility, the equal availability of use to all inmates, and per the amount of written requests for use received. Hours of operation will be posted within each housing unit. Housing Unit C will have a dedicated legal library computer terminal and Housing Units A and B will share a mobile legal library computer terminal. Said mobile unit will be in place within the housing unit's law library according to the posted schedule, but will be available to both housing units upon written request. An Escort Officer will transport said mobile unit between housing units as requested or as required by policy.

- c. The Housing Unit Officer will inspect the law library prior to and immediately after any inmate use and make an appropriate logbook entry, including, but not limited to, the name of the inmate using the law library and the condition of the room, cart, and materials before and after each inmate use.
- d. Damage of any materials in the law library will result in the loss of privileges, disciplinary action, criminal charges, or any combination thereof.
- e. If an inmate desires to have a section of law printed or photocopied, they will request Form CF-028 (Request for Legal Material) from their Housing Unit Officer and complete the appropriate section. A "B" shift Escort Officer will retrieve all such completed CF-028 forms after evening lock-in and place them into the mailbox located outside the Classification/Escort Office. An "A" shift Escort Officer will review all such CF-028 forms prior to printing or photocopying to ensure that sufficient funds are available in the inmate's account to cover the cost for said printing or photocopying. Inmates will be charged 25 cents per single sided copy/print and the sum amount for all such requests will be deducted from their commissary account. The "A" shift Escort Officer will ensure that all purchased material is photocopied or printed and is available for distribution to the purchasing inmates during the first shift of the day immediately following the day of the initial request. Inmates will sign the bottom of the form acknowledging receipt of the printed/photocopied materials before receiving same from the distribution officer. All such purchased photocopied materials become the property of the inmate purchasing same. When completed, the CF-028 form will be maintained in the inmate's file in the booking area.

- f. Indigent inmates, upon completing Form CF-028 requesting same, will be provided with supplies necessary for the preparation of legal matters at facility expense, including pens, paper, and any requested printed/photocopied legal reference materials. Upon their release, indigent inmates will be required to return all legal reference materials printed/photocopied and any unused supplies provided at facility expense. All returned items will for further inmate use.
 - g. Inmates will only be allowed to request and review one (1) printed publication at a time.
 - h. Inmates will have access to a typewriter for the purpose of preparing legal documents. Form CF-028 must be completed requesting to use same. One (1) typewriter will be located in the facility library for such use.
 - i. Inmates requiring the services of a notary must request such services in writing using Form CF-019. All completed forms will be forwarded to the Shift Supervisor by the Housing Unit Officer. The Shift Supervisor will notify the facility notary whose services will be made available to the requesting inmate within one (1) business day after an inmate's written request for notarization or attestation of their signature. Notary services will take place in the multi-purpose room within the requestor's Housing Unit.
5. Limitation of Legal Services –
- a. An inmate's access to legal services will not be denied, revoked or limited solely as a result of disciplinary action, including an inmate's confinement to a cell for disciplinary reasons or administrative segregation.
 - b. The Chief Administrative Officer may limit an inmate's access to facility legal reference materials or supplies when an inmate has been found to have intentionally damaged any such item. Such limitations will be made in writing, including, but not limited to, documentation used during the disciplinary process associated with the inmate's misuse of said materials..