



DEPARTMENT OF CORRECTIONS
MONTANA STATE PRISON
OPERATIONAL PROCEDURE

Table with 2 columns: Field Name and Value. Fields include Procedure (MSP 3.3.2 INMATE ACCESS TO COURTS), Effective Date (June 10, 2002), Revision Date(s) (July 1, 2007, July 13, 2009, March 7, 2017, September 6, 2019, October 1, 2019, September 1, 2020), Reference(s) (DOC 3.3.2), and Signature (/s/ Jim Salmonsens / Interim Warden).

I. PURPOSE

To provide assistance to inmates who desire to access the courts.

II. DEFINITIONS

Pro se – the inmate represents himself in court without an attorney.

III. PROCEDURES

A. Inmate Legal Access

- 1. The Warden or designee will ensure MSP inmates have meaningful access to the courts by providing:
a. a minimum of one computer with electronic legal research capabilities...
b. forms that inmates may utilize to file complaints or petitions;
c. reasonable accommodations for legal access...
d. assistance to illiterate and non-English speaking inmates...

B. Attorney Access to Inmates

- 1. Inmates who desire a consultation with their attorney will, upon reasonable notice...
2. Inmates are allowed to correspond with attorneys and the courts in accordance with the provisions outlined in MSP 3.3.6, Inmate Mail.

C. Inmate Legal Materials and Assistance

- 1. Inmates will be provided access to MSP procedures and DOC policies and the following legal materials at the libraries:

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- a. the Montana Code Annotated
 - b. the published decisions of the Montana Supreme Court
 - c. the decisions of the Montana federal district court
 - d. the decisions of the Ninth Circuit Court of Appeals
 - e. the decisions of the United States Supreme Court
 - f. the United States Code, Titles 28 and 42
 - g. federal and state rules of court
 - h. the Administrative Rules of Montana, Title 20
 - i. The non-restricted DOC Policies and applicable facility procedures
2. The following forms will be available for inmates in the libraries or from the librarian:
- a. Montana State District Court:
 - 1) Affidavit of Inability to Pay Filing Fees
 - 2) Motion to Withdraw a Plea of Guilty
 - 3) Petition for Post-Conviction Relief
 - 4) Petition for DNA Testing
 - 5) Petition for Writ of Habeas Corpus
 - 6) Motion
 - b. Montana State Supreme Court:
 - 1) Motion to Proceed on Appeal Without Payment of Filing Fee
 - 2) Notice of Appeal
 - 3) Petition for Writ of Habeas Corpus
 - c. United States District Court – District of Montana:
 - 1) Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus
 - 2) Complaint (Pro Se Prisoner)
 - 3) Motion to Proceed in Forma Pauperis
 - d. Other:
 - 1) Application for Review of Sentence
 - 2) Application for Executive Clemency

D. Copies and Notary Services

1. A copy machine is available in the low side library for producing photocopies of legal research or court pleadings an inmate needs to pursue litigation.
 - a. Inmates may purchase copy coupons from the librarians. The coupons will be used by the inmates to exchange for:
 - 1) The photocopies of legal research or court pleadings that are made for them by the librarians or their designee.
 - 2) Each page of a policy or procedure that are printed out for them by the librarians or their designee.
 - b. The cost of the coupons, which may include an administrative fee, may not exceed 25¢ per page.
 - c. Inmates in restrictive housing units, and those with disabilities preventing them from accessing the library, may get photocopies or print outs of the materials referenced above by sending an OSR to the librarians, who will process the requests.
 - d. Indigent inmates may request up to 30 pages of copies per month of the materials referenced above from the librarians. The librarians will approve or reject the request based upon the inmate’s name being on the current indigent list.

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2. Notary service is available to inmates through their housing unit Case Manager. Notary service is free of charge for the first five documents per month. Inmates may be charged up to \$2.00 per document for any additional notarizations.

E. Inmate Personal Legal Papers

1. An inmate may retain only their own personal legal papers in accordance with *MSP 4.1.3, Inmate Personal Property*.

F. Prohibited Inmate Activities

1. An inmate may not provide legal work or write a legal document for another inmate. To do so is a disciplinary rule violation subject to potential disciplinary action pursuant to *MSP 3.4.1, Institutional Discipline*.

G. Other Legal Issues

1. Indigent inmates receive paper, envelopes, and writing instruments in their indigent packages for writing and mailing legal documents and may request first class postage for legal mailings not to exceed eight mailings or a maximum of \$10.00 postage per month.
2. Inmates may not save or store data or information for their personal use on state owned computers. Any inmate document saved on a state computer is subject to deletion.

H. Prohibition on Retaliation

1. MSP staff will not retaliate against or penalize any inmate who chooses to access the courts.

IV. CLOSING

Questions concerning this operational procedure should be directed to the DOC Legal Services Bureau.

V. ATTACHMENTS (none)