

GEORGIA DEPARTMENT OF CORRECTIONS



Standard Operating Procedures

Policy Name: Access to Courts

Policy Number: 227.03

Effective Date: 6/30/2020

Page Number: 1 of 10

Authority:
Commissioner

Originating Division:
Facilities Division

Access Listing:
Level II: Required Offender
Access

I. Introduction and Summary:

This policy supports departmental goals by establishing requirements to ensure offenders are provided with meaningful access to the courts for their criminal appeals, habeas, sentencing issues, and conditions of confinement cases.

II. Authority:

- A. Georgia Department of Corrections(GDC) Board Rule: 125-2-4-.17;
- B. GDC Standard Operating Procedures (SOPs): 215.15 Transitional Center Resident Legal Access, 227.06 Offender Receipt of Mail, 406.19 Offender Financial Transactions and Business Activities, 227.01 Offender Access to Telephones, and 227.05 Visitation of Offenders, 501.01 Library Services Administration; and
- C. ACA Standards: 2-CO-3C-01, 5-ACI-4A-22 (ref. 4-4268), 5-ACI-3D-01 (ref. 4-4274), 5-ACI-3D-02 (ref. 4-4275), 5-ACI-3D-03 (ref. 4-4276), 5-ACI-3D-05 (ref. 4-4278), 5-ACI-7E-01 (ref. 4-4505), 5-ACI-7E-06 (ref. 4-4510), 4-ALDF-6A-01, 4-ALDF-6A-02, 4-ALDF-6A-03, and 4-ACRS-6A-01.

III. Definitions: None.

IV. Statement of Policy and Applicable Procedures:

A. Purpose:

The Georgia Department of Corrections (GDC) shall provide state offenders incarcerated in prisons, probation detention centers, probation boot camps, and county institutions with meaningful access to the courts solely for their criminal appeals, habeas, sentencing issues, and conditions of confinement cases.

B. Access to Materials:

Paper, envelopes, pens and carbon paper for the preparation of legal documents

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and mail shall be available in the offender commissaries of each facility/center. Indigent materials shall be provided per SOP 406.19 Offender Financial Transactions and Business Activities.

C. Access to the Electronic Law Library:

1. Offenders must be placed on a call-out to be scheduled for the electronic law library. Each offender must submit a written request to the Librarian or staff member responsible for the electronic law library to obtain a slot of time.
2. The Librarian shall schedule offenders to use the electronic law library. The Librarian will determine the amount of time that each offender receives based on the number of computers and the number of offenders requesting access. Each requesting offender shall receive at least 30 minutes of access to the electronic law library.
3. The Librarian or the person responsible for the electronic law library shall record on Attachment 4, Legal Library Computer Log Sheet, the amount of time for which the offender will receive access to the electronic law library.
4. No offender will be allowed to utilize the printed legal collection while using the electronic law library.
5. Once the Librarian places the allotted time on Attachment 4, Legal Library Computer Log Sheet, the offender shall record the date, offender name, offender ID, and the start time of the offender's computer access. When the allotted time has expired, the offender shall sign-out on the computer log and the Librarian shall assign the next offender to the electronic law library.
6. Printed material from the electronic law library shall be available only to those offenders who are locked down in accordance with this SOP.

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7. The Librarian or the person responsible for the electronic law library shall load updated computer software onto the computers within two (2) days of its receipt from the vendor.
8. The Librarian, designee, or the offender reference library clerk shall assist offenders in using the electronic law library.
9. The electronic law library is for the benefit of the offender population only.

D. Offender Reference Libraries:

1. Contents of the Offender Reference Libraries are to be determined by the GDC Office of Legal Services and reviewed annually.
2. Written legal materials for which publishers provide updates, but for which the facility does not acquire updates (e.g. reporters), shall be labeled as follows:

"This legal volume may not contain the most current legal material. It should be consulted only for general reference or for historical purposes, not for the establishment of the current standing of any legal question."

3. Each facility covered by this SOP shall provide a supply of state and federal habeas corpus forms, a supply of pleading forms under 42 USC § 1983, a supply of state inmate action forms as provided in OCGA § 9-10-14, a supply of application for leave to file second or successive habeas corpus petition forms under 28 USC § 2244(b), and a supply of application for leave to file second or successive motion to vacate, set aside, or correct sentence forms under 28 USC § 2255.
 - a. Copies of the forms, not to exceed five (5) copies of each form per month per offender, shall be provided free of charge to offenders.

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- b. Each reference library shall post the address of the clerks of each of the three federal district courts of Georgia for offenders to request additional copies of forms provided pursuant to 42 USC § 1983. Each reference library shall maintain a current address listing of appropriate clerks of court.
4. No reference library will furnish printed copies, photocopies, typewriters, or a typing service to offenders, except as provided in this SOP for locked down offenders.
5. Reference libraries maintained at prisons shall be open and available for offender use a minimum of 20 hours per week, exclusive of meals, counts, etc. The reference libraries at probation detention centers and county institutions will be made available to each requesting offender for a minimum of two (2) hours per week.
 - a. Reference library access shall not conflict with mandatory facility schedules such as work, meals, and sick calls, except as provided in this SOP.
 - b. Library hours will be shortened or cancelled only in the event of an emergency.
 - c. Offenders may request two (2) hours of reference library time per week. An offender who is subject to a court-determined or statutory deadline may request four (4) hours of additional library time per week up to thirty days prior to the deadline. Such request must include verification from the court in the form of a letter or order, or the citation by the offender of a published rule or statute imposing a deadline including an applicable statute of limitation. This additional time is a privilege and not a right. If additional time is granted and an offender's work or program schedule does not permit additional reference library time, the offender shall be excused from said

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schedule during the period necessary to allow access to the reference library.

6. Offenders must provide a written request to the Librarian to be scheduled for reference library time. The Librarian must date stamp the request form on the date it is received. From the date of receipt of the request the offender shall be scheduled his/her reference library time within seven (7) calendar days.
7. Procedures for offenders to request law books and materials:
 - a. Not more than two (2) items may be signed out by an offender at any given time. Offenders who are using the electronic law library will not be allowed to checkout law books until they complete their research on the electronic law library.
 - b. An offender must sign for each item checked out from the legal reference collections.
 - c. Reference Library staff members, GDC staff members, and offender library clerks shall not provide legal advice. Their assistance is limited to the following:
 - 1) Informing offenders of the contents of the library;
 - 2) Explaining the procedures for conducting legal research;
 - 3) Explaining rules and procedures for the use of the legal materials;
 - 4) Assisting offenders in locating specific items of information or cases by citation; and
 - 5) Obtaining assistance for offenders who are illiterate, cannot read English, or have other special needs.

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E. Offenders Confined to Living Areas:

1. The Warden/Superintendent of each facility subject to this SOP shall establish procedures to provide access to reference library materials for offenders who are confined to living areas. Notice of this procedure will be given during orientation to the facility or upon transfer of the offender to the confined area.
2. Offenders in these areas, including lockdown, shall have access to the prison's reference library by book cart delivery, photocopies, and/or scheduled reference library visits. If a book cart is used, it will be scheduled twice a week for each unit in which it is used unless there are no requests.
3. The reference library shall provide each of these areas with a complete list and brief description of all materials in the reference library for the use of offenders confined to said areas.
4. Prisons that maintain lock down units of over 150 beds, where direct access to the prison's reference library is not ordinarily provided, will maintain a satellite reference library.
5. Offenders in lock down units will be provided access to the satellite reference libraries according to local operating procedures established pursuant to this Standard Operating Procedure.

F. GDC may Provide for Direction, Coordination, Staffing, and Funding of Reference Libraries:

1. The Librarian shall be responsible for:
 - a. Supervising offender reference library clerks;
 - b. Maintaining daily logs of reference library use;

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- c. Scheduling offenders for reference library use;
 - d. Maintaining an inventory of all legal materials; and
 - e. providing for a procedure to log in all legal materials and maintaining a record of all items in the collection.
2. Reference library materials shall not be removed from the reference library unless the Librarian assigns the material to a book cart.
 3. A sign providing the following warning shall be conspicuously posted in each reference library:

“WARNING”

NOTE: If an offender files a lawsuit and it is deemed frivolous, the court, whether state or federal, can demand costs against the offender which will be deducted from the offender account or from any other property the offender now owns or may acquire in the future.

4. The Warden or his designee shall select the offender reference clerks at the facility. The Warden or his designee may change this work assignment at any time for any reason.
 - a. The Warden or his designee shall adhere to the following guidelines in the selection of offender reference library clerks:
 - 1) The offender should be able to comprehend information, aid other offenders in research, and assist the Librarian in operating the reference library;

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- 2) The offender must be a highly motivated, productive, and reliable person;
 - 3) The offender should work well with other offenders and supervisors;
 - 4) The offender should have a high school diploma or GED certificate; and
 - 5) Preference shall be shown to offenders who are fluent in more than one language.
- b. Offender reference library clerks shall respond to questions posed by offenders but are not permitted to give legal advice. Offenders who provide legal advice to other offenders are not acceptable as offender reference library clerks.
5. The Librarian shall report directly to the Warden regarding the operation of the reference library. The Warden shall designate substitute reference library personnel to act as the Librarian in his/her absence.
 6. Facilities which maintain a reference library shall maintain it in a secure and orderly manner. Direct access to these books shall be limited to library staff members and offender reference library clerks.
 7. Destruction, alteration, theft, or mutilation of legal materials or cases is destruction of state property which may result in criminal prosecution and/or a disciplinary report and restitution by the offender. The Librarian shall implement necessary reports on the destruction of legal materials by offenders.
 8. An offender who has been the subject of a disciplinary report for misconduct in connection with use of the reference library or library materials may be denied access to the reference library or library materials for a reasonable period of time.

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G. Possession of Legal Materials and Regulation of Legal Assistance by Offenders:

1. Offenders may possess legal materials in their living areas (including law books purchased by the offender) to the extent said materials do not, in combination with other personal property, create a fire, sanitation, security, or housekeeping problem. This procedure concerning the possession of legal materials does not in any way allow the keeping of additional personal property beyond that allowed under GDC rules.
2. GDC expressly allows offenders to assist other offenders in conducting legal research and preparing cases. However, this assistance will be limited by the following:
 - a. Such assistance shall be performed in appropriate common areas;
 - b. Offenders shall not possess the legal materials of other offenders. Any offender found to be in possession of another offender's legal materials will receive a disciplinary report and the materials will be returned to their owner;
 - c. Offenders shall not receive consideration of any kind (money, store goods, or otherwise) for their assistance;
 - d. Administration shall not adjust offender schedules or assignments to allow offenders to assist one another;
 - e. Administration shall not allow an offender extra time in the reference library to assist other offenders; and
 - f. Administration shall restrict offender assistance if there is a threat to the security and/or discipline of the facility.

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H. Offender request for GDC Policy or Procedure:

1. All facilities subject to this SOP with a reference library shall maintain the following in the reference library:
 - a. Rules of the Board of Corrections;
 - b. SOPs with a Level II (Required Offender Access) listing; and
 - c. Requests for other GDC SOPs and LOPs shall be considered on a case by case basis. Such SOPs will be provided to the offender where they do not threaten the safety, security, or discipline of the institution. If there are any questions regarding which procedures are appropriate to provide to an offender, please contact the GDC Office of Legal Services.

I. Notary Services:

The Librarian shall obtain and maintain a Notary Public commission and shall provide notary services to offenders in the reference library and locked down units. Each time an item is notarized, the date, offender name, and offender ID number shall be recorded in the notary log.

V. **Attachments:**

- Attachment 1: Offender Reference Library Collection
- Attachment 2: Offender Reference Library Sign-In Sheet
- Attachment 3: Offender Reference Library Daily Log
- Attachment 4: Legal Library Computer Log Sheet

VI. **Record Retention of Forms Relevant to this Policy:**

Attachment 1 shall be maintained until revised or obsolete. Upon completion, Attachments 2, 3, and 4 shall be retained locally for three (3) years then destroyed.