



TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

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CHAPTER 291

DEPARTMENT OF CORRECTIONS

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ARCHIVES DIVISION
SECRETARY OF STATE
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FILING CAPTION: Legal Affairs (AIC)

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NEED FOR THE RULE(S):

Temporary amendments to these rules are necessary to: 1) allow the Legal Library to make copies of letters addressed to the Attorney General and District Attorneys, and 2) allow adults in custody to access secure network storage.

JUSTIFICATION OF TEMPORARY FILING:

For the reasons explained more fully below, the Department of Corrections finds that following the permanent rulemaking process, rather than taking this temporary rulemaking action, will result in serious prejudice to the public interest. The Department of Corrections finds that immediate implementation through the temporary rulemaking process is in the public's interest because 1) it is necessary to support legitimate legal communication, and 2) delaying the removal of USB drives and transitioning to network access poses an immediate and significant security risk, including potential data breaches, contraband dissemination, and loss of critical AIC-related information.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

RULES:

291-139-0120, 291-139-0190

AMEND: 291-139-0120

RULE TITLE: Access to Law Library Services and Equipment

RULE SUMMARY: Amends rules around access to law library services and equipment for the preparation and filing of correspondence in connection with pending legal matters.

RULE TEXT:

(1) General:

(a) Within the inherent limitation of resources and the need for facility security, safety, health, and order, and subject to operational contingencies, all inmates will be afforded reasonable opportunities to access law library services and equipment, and necessary supplies for the preparation and filing of legal documents with the courts and paroling

authorities, on a prioritized basis, in accordance with these rules.

(b) Inmates may be permitted access to law library services and equipment to prepare and file correspondence with the court or paroling authorities, and to communicate with counsel in the Attorney General's Office or with the district attorney, in connection with a legal matter that is pending before the court or paroling authorities.

(2) Priority Access to Law Library Services and Equipment:

(a) Inmate access to law library services and equipment will be prioritized in the following order:

- (A) Priority legal users with an imminent court deadline;
- (B) General legal users with an imminent court deadline;
- (C) Priority legal users without an imminent court deadline; and
- (D) General legal users without an imminent court deadline.

(b) Library coordinators will consider whether the inmate has assigned legal counsel when determining priority within these categories.

(3) Submission of Access Request Form Required: In order to obtain access to law library services and equipment and necessary supplies, an inmate must submit to the library coordinator a written request using the appropriate access request forms.

(4) Inmates may be allowed a reasonable amount of time to do legal research and to prepare legal documents in the facility law library or in the inmate's assigned cell or living unit.

(a) A special time allowance for research and preparation of legal documents using law library services and equipment may be granted to a legal user who demonstrates such a need with verification of an imminent court deadline.

(b) In the event of extended facility operational modifications library staff will prioritize access to law library services and equipment for inmates in the order described in subsection (2) above.

(5) Inmates received from other state or federal jurisdictions who are incarcerated in a Department of Corrections facility will be afforded access to law library services and equipment and necessary supplies in the same manner as Oregon inmates; however, the department will not be responsible for providing inmates with legal research materials specific to other state jurisdictions other than those materials that are regularly made available to Oregon inmates.

These inmates must contact their respective state or federal corrections authorities to acquire state-specific materials.

(6) Oregon inmates who are incarcerated in a correctional facility located in another state or in a federal correctional facility may request access to Oregon-specific legal research materials and assistance from an assigned inmate legal assistant through correspondence directed to the library coordinator at the Oregon facility they were last housed. Such requests will be processed with reasonable diligence.

STATUTORY/OTHER AUTHORITY: ORS 179.040, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 179.040, 423.020, 423.030, 423.075

AMEND: 291-139-0190

RULE TITLE: Storage, Control, and Disposition of Legal Materials

RULE SUMMARY: Amends rule to provide for the assignment of network storage space to adults in custody.

RULE TEXT:

(1) General:

- (a) Each inmate may possess and store their own legal materials as authorized by the department in accordance with the department's rules on Personal Property (Inmate) (OAR 291-117).
- (b) Each inmate is responsible for maintaining custody of their own authorized legal materials except for those authorized legal materials that are maintained on digital or electronic storage media, which will be maintained in the facility law library.

(2) Removable Media Devices:

- (a) The department, in its discretion, may make removable media devices available for inmate use for saving and storing legal documents created using word processing equipment in the facility law library.
- (b) When made available by the department for inmate use, removable media devices that are owned by the department may be assigned to an inmate by the library coordinator. To receive authorization for assignment and use of a department-owned removable media device an inmate must agree to the terms and conditions of use set forth in a Removable Media Use Acknowledgment Statement (CD1761).
- (c) An assigned removable media device may only be used by the inmate for the creation and storage of legal documents and is subject to cursory review by the library coordinator and other correctional staff. Any material stored on an assigned removable media device that is not legal in nature, or which belongs to another inmate or pertains to another inmate's legal affairs will be confiscated in accordance with the department's rules on Personal Property (Inmate) (OAR 291-117). Misuse of removable media devices may result in loss of privileges.
- (d) Assigned removable media devices will be securely stored in the facility law library or in another secure area designated by the functional unit manager or designee. Inmates may access their assigned removable media by checkout for use at an approved law library terminal.
- (e) The use of removable media by inmates is governed by the department's rules on Inmate Access to Automation (OAR 291-086) and the Removable Media Use Acknowledgment Statement (CD1761).

(3) Assigned Network Storage Space:

- (a) The department, in its discretion, may make network storage space available for inmate use for saving and storing legal documents and authorized correspondence as provided under OAR 291-139-0120(1)(b) created using word processing equipment in the facility law library.
- (b) When made available by the department for inmate use, network storage space that is owned by the department may be assigned to an inmate by the library coordinator. In order to receive authorization for assignment and use of a department-owned storage space an inmate must agree to the terms and conditions of use set forth in the AICNet Storage Use Acknowledgment Statement.
- (c) Assigned network storage space may only be used by the inmate for the creation and storage of legal documents and is subject to cursory review by the library coordinator and other correctional staff. Any material stored on assigned storage space that is not legal in nature, or which belongs to another inmate or pertains to another inmate's legal affairs will be confiscated in accordance with the department's rules on Personal Property (AIC) (OAR 291-117). Misuse of assigned storage space may result in loss of privileges.
- (d) Assigned network storage space will only be accessible at approved law library terminals.
- (e) The use of assigned network storage space by inmates is governed by the department's rules on AIC Access to Automation (OAR 291-086) and the AICNet Storage Use Acknowledgment Statement.

(4) Audio or Video Recordings of Court and Paroling Authority Hearings and Proceedings:

- (a) Inmates in Department of Corrections facilities may be authorized by the library coordinator to access recordings of their official court and paroling authority hearings and proceedings sent in from the court, paroling authority, or the

inmate's attorney. Inmates can request access to those recordings by using the Law library Request Form for General Population (CD1714).

(b) Authorized audio or video recordings of hearings and proceedings sent into the facility from a court, paroling authority, or attorney will be securely stored in the law library.

(c) Authorized audio or video recordings hearings and proceedings sent into the facility from a court, paroling authority or attorney must be labeled to identify the inmate's name and State Identification ("SID") number, and the court and case caption and number that the records pertain to. The library coordinator may place additional labeling on electronic media sent in from a court, paroling authority, or the inmate's attorney for purposes of storage and tracking.

(d) Authorized audio or video recordings of hearings and proceedings sent into the facility from a court, paroling authority, or the inmate's attorney must be compatible with the media software made available for inmate use by the department. Any media that is not compatible with the department existing media software will be returned to the sender. Inmates are responsible for informing their attorney of department requirements.

(e) Only those inmates who are the subject of and a party to the court or paroling authority case or proceeding, or assigned legal assistants as requested by the inmate, will be authorized to review the audio or video recording of the court or paroling authority hearing or proceeding.

(5) Transfers Within the Department:

(a) Inmates who transfer to another Department of Corrections facility will have their legal property transferred with them.

(b) Electronic material stored on an assigned removable media device will be forwarded by the library coordinator or other supervising staff at the previous facility to the library coordinator at the receiving facility without charge to the inmate.

(6) Disposition of Legal Material:

(a) Department of Corrections staff will process the disposition of legal documents and materials in accordance with the provisions in the department's rules on Personal Property (Inmate) (OAR 291-117).

(b) Upon an inmate's release from a Department of Corrections or other facility upon completion of the inmate incarceration term or sentence, or upon the death of an inmate, all stored legal materials of the inmate will be processed in accordance with the department's rules on Personal Property (Inmate) (OAR 291-117.)

(c) Legal documents and other materials will be destroyed if department staff are unable to identify the inmate to which the materials belong in accordance with the rules on Personal Property (Inmate) (OAR 291-117).

STATUTORY/OTHER AUTHORITY: ORS 179.040, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 179.040, 423.020, 423.030, 423.075