

State of Vermont Agency of Human Services Department of Corrections	Title: Inmate Access to Courts		Page 1 of 2								
Chapter: Correctional Services	# 385	Supersedes: 385 dated 1/11/1999; 385.01 1/11/1999; and Interim Memo dated 3/27/2017									
Attachments, Forms & Companion Documents: All attachments, forms, and companion documents associated with this directive are available on the Department's website											
Local Procedure(s) Required: Yes Applicability: All staff (including volunteers and contractors) Security Level: "B"- Anyone may have access to this document.											
Approved: <table style="width:100%; border:none;"> <tr> <td style="text-align:center; border-bottom:1px solid black;">SIGNED</td> <td style="text-align:center; border-bottom:1px solid black;">2/2/18</td> <td style="text-align:center; border-bottom:1px solid black;">2/12/18</td> <td></td> </tr> <tr> <td style="text-align:center;">Lisa M. Menard, Commissioner</td> <td style="text-align:center;">Date Signed</td> <td style="text-align:center;">Date Effective</td> <td></td> </tr> </table>				SIGNED	2/2/18	2/12/18		Lisa M. Menard, Commissioner	Date Signed	Date Effective	
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PURPOSE

The purpose of this policy is to establish a uniform set of guidelines and procedures that provide Vermont Department of Corrections’ (DOC) inmates adequate, effective, and meaningful access to courts, law libraries, legal services and the necessary supplies for the preparation and filing of initial pleadings with the courts. This policy shall only apply to claims challenging sentences, directly or collaterally, or the conditions of their confinement.

PHILOSOPHY

Within the inherent limitations of resources and the need for correctional facility security, safety, health and order, every inmate has the fundamental constitutional right of access to state and federal courts, legal counsel, and public officials and agencies. It is the philosophy of the DOC to provide reasonable and meaningful access to these entities through a combination of resources and services. Courts also have stated that law libraries and prison legal-assistance programs were valued as contributing to rehabilitation.

AUTHORITY

3 V.S.A. § 3052 (a) and 28 V.S.A. §102 (b) (2) and (1);

REFERENCE

[\(02\) Policy Development, Implementation, and Management](#); [\(306.01\) Incapacitated Persons \(INCAPS\)](#); [\(321.01\) Inmate/Inmate Property](#); [\(321.02\) Inmate/Inmate Claims – Facility and Field](#); [\(325\) Telephone Use - APA Rule # 13-043](#); [\(327\) Visits - APA Rule # 79-26](#); [\(327.01\) Inmate Visits](#); [\(403.04\) Inmate](#)

[Observation Checks & Accountability](#); [\(409.01\) Searches](#); [\(409.04\) Inmate/Inmate Drug Testing](#); [\(409.05\) Inmate Mail, Publications, and Audio/Video Regulations](#); [\(410\) Due Process](#); [\(410.01\) Facility Rules and Inmate Discipline](#); [\(Interim Procedure\) Contraband Classification and Disposition](#); [\(410.06\) Restrictive Housing Status, Conditions of Confinement](#); ACA 3-4262-4264: Inmate legal activities Visits w/Attorneys, unmonitored attorney telephone calls, unrestricted & uncensored correspondence with attorneys, indigent inmate postage, law library legal materials, jailhouse lawyers; law library operations, notary publics, prohibition on retaliation; personal legal materials; legal services for segregated inmates; and American Correctional Association 4th Edition Standards for Adult Correctional Institutions: 4-4268, 4-4269, 4-4273, 4-4274, 4- 4275, 4-4276, 4-4277, 4-4442, and 4-4505, 4-4506, 4-4508, 4-4509, 4-4510, 4-4511; *Bounds v. Smith*, 430 U.S. 817, 828 (1977).

POLICY

1. DOC shall ensure that inmates are provided with meaningful access to courts consistent with legitimate penological objectives. All inmates shall be given adequate opportunity to prepare and file legal papers to attack sentences, directly or collaterally; challenge the conditions of confinement; and initiate habeas corpus proceedings, direct appeals, constitutional rights actions and other civil rights actions related to incarceration.
2. The right of access to courts applies to inmates regardless of financial status. Indigent inmates shall be given access and opportunity to obtain legal services and shall not be denied access to the law library based on their status as an indigent inmate, or their inability to pay for those services as required by this policy.
3. The right of access to courts shall apply to inmates regardless of their classification.
4. DOC staff shall not interfere with, harass, punish, or otherwise penalize any inmate as a result of:
 - a. Participation in litigation, either as a party or a witness,
 - b. Filing or threatening to file a lawsuit, grievance, appeal, or other complaint about prison conditions or official misconduct; or
 - c. Discussing with others actual or potential legal action or other forms of grievance and complaint.
5. Inmates may be granted access to utilize law terminals located in a correctional facility to complete legal research, or view authorized electronic versions of legal materials.
 - a. All materials sent electronically into a correctional facility shall be subject to all DOC policies concerning mail handling.
 - b. Inmates who receive legal materials through an electronic source have no expectation of privacy.
 - i. Before use of the law terminals, inmates shall agree to the Terms of Use, including the provision that all correspondence and communications between the inmate and third parties are subject to monitoring, recording, interception, and disclosure and communications are not protected by attorney-client privilege.