




Department of
Rehabilitation & Correction

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| SUBJECT: Printed Material | PAGE <u> 1 </u> OF <u> 8 </u> |
| | NUMBER: 75-MAL-02 |
| RULE/CODE REFERENCE: ORC 5120.01, 5120.425, 5120.426, 5120.427, 5120.428; OAC 5120-9-17, 5120-9-18, 5120-9-19 | SUPERSEDES: 75-MAL-02 dated 11/29/2013 |
| RELATED ACA STANDARDS: 5-ACI-7D-04 (4490) | EFFECTIVE DATE: December 21, 2020 |
| | APPROVED:  |

I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

The purpose of this policy is to clarify the implementation and application of Administrative Rule 5120-9-19, Printed Material, regarding the inspection, screening, and processing of certain types of printed material.

III. APPLICABILITY

This policy applies to all incarcerated individuals and staff of the Ohio Department of Rehabilitation and Correction (ODRC) and particularly to mailroom screeners who process mail for incarcerated individuals and other staff who are responsible for reviewing or screening printed material intended for incarcerated individuals.

IV. DEFINITIONS

Copied Materials - As used in this policy, the term “copied materials” includes both photocopied material and material printed or downloaded from a computer.

Operation Support Center (OSC) Publications Screening Committee (PSC) - A group of ODRC employees who review printed materials to determine whether they meet the criteria for exclusion as set forth in Administrative Rule 5120-9-19, Printed Materials.

Personal Nude Photographs - As used in this policy, the term “personal nude photographs” refers to snapshots, photos, photocopied or digitally produced pictures, etc. of an adult, child, or infant who is nude or partially nude above or below the waist and is displaying breasts, buttocks, or genitals. It does not include magazines, calendars or other professionally-produced materials intended for commercial distribution. Such commercial materials do remain subject to review under the procedures for withholding printed materials set forth in Administrative Rule 5120-9-19, Printed Materials.

Printed Materials - As used in this policy, the term “printed materials” means any publication, document, or record including, but not limited to, the following: newspapers, magazines, pamphlets, books, photographs, or drawings. Printed materials may be used or new. The term “printed materials” does not include either personal letters or “advertising mail” as that term is defined in Administrative Rule 5120-9-17 (J) Incoming Mail.

Simple Pamphlets and Brochures - A simple pamphlet or brochure shall consist of a single sheet of paper (8 ½” x 11”) and may be configured in a bi-fold or tri-fold configuration.

V. **POLICY**

It is the policy of the ODRC to process incarcerated individual mail and printed material in an efficient, timely manner and to regulate incarcerated individual property in accordance with Administrative Rules 5120-9-17, Incoming Mail; 5120-9-18, Outgoing Mail; 5120-9-19, Printed Material; and 5120-9-33, Packages and Property Restrictions.

VI. **PROCEDURES**

A. **Notice of Withholding (DRC4147)**

The Notice of Withholding (DRC4147) is the initiating document for the screening process described in Administrative Rule 5120-9-19, Printed Material. This form is used to record the rationale for the initial decision to withhold the printed material. This form therefore provides the following notice requirements:

1. Notice to the incarcerated individual of the decision to withhold the publication and the rationale for that decision.
2. Notice to the incarcerated individual of their options in light of that decision including the right to appeal.
3. Notice of appeal of the withholding decision to the OSC Publication Screening Committee (PSC).

B. **Completion of Notice of Withholding (DRC4147)**

The proper completion of the Notice of Withholding (DRC4147) is essential to the publication screening process. The form must clearly and specifically state the basis for the decision to withhold. The form is structured to record the conclusion of the reviewer. The form enumerates the grounds for withholding printed material and provides an area in which to cite an example from the printed material that supports or describes basis of the decision to withhold.

1. Citations such as, “the whole book”, “the whole magazine,” or “throughout the magazine” etc., are not sufficiently specific and are not acceptable. Citations of objectionable material should include page number(s) or other information that would assist in locating the material cited.

2. The form will initially be reviewed by a member of the staff of the Division of Legal Services to ensure that it is properly completed before the materials are screened by the PSC.
3. Forms that do not cite a specific example in the material that either supports or illustrates the reason for the institution's decision to withhold shall not be screened by the PSC and will be returned to the institution.
4. Once returned, the institution shall have the opportunity to amend the form to clearly state the basis for its decision. Any such amended form must be served on the incarcerated individual. If the incarcerated individual wants to maintain their appeal, then the material can be resubmitted to the PSC.
5. A separate withholding form needs to be prepared for each publication to be withheld. For example, if an incarcerated individual receives four (4) different magazines and if after reviewing the material the institution determines that each of the magazines should not be permitted then the managing officer's institution must prepare a Notice of Withholding (DRC4147) for each publication withheld.
6. Notice of Withholdings (DRC4147) submitted to the PSC listing multiple publications shall be returned to the institution without screening. Once returned, the institution shall have the opportunity to amend the forms to clearly state the basis for its decision as to each publication. Any such amended forms must be served on the incarcerated individual. If the incarcerated individual wants to maintain their appeal, then the material can be resubmitted to the PSC.

C. Application of the "Publishers Only" Provision of Administrative Rule 5120-9-19, Printed Material

Administrative Rule 5120-9-19, Printed Material, states "Printed materials may be received in reasonable quantities; but only directly from a publisher or distributor" and is known as the "publisher's only" provision. In order to expedite the application of this rule, some material may be permitted in personal correspondence without requiring specific prior approval from the managing officer, unless the material is otherwise objectionable under Administrative Rule 5120-9-19, Printed Material. The following are examples of permissible items:

1. Newspaper clippings: The ODRC has no desire to prevent families from sending incarcerated individuals such things as obituaries, wedding announcements, birth announcements, graduation announcements, etc., that were clipped from their local newspaper. Therefore, incarcerated individuals may receive up to five (5) pages of newspaper clippings in any one envelope. All newspaper clippings shall be copied on 8 ½" x 11" paper prior to sending into the institution. For purposes of this rule, five clippings shall be no more than five pieces of paper (each sheet no larger than 8½" x 11").
2. Pamphlets, brochures, etc.: Incarcerated individuals may receive up to five (5) simple pamphlets or brochures in a personal correspondence.

3. Copied material: Individuals may enclose up to five (5) pages (one side, 8½” x 11”) of copied material in a personal correspondence. Legal materials sent by an attorney or court are not subject to this limitation. Legal materials that have been sent out by an incarcerated individual to be copied by an outside copying service, and are being returned, are not subject to this limitation.
4. Photographs: Incarcerated individuals may receive no more than five (5) photographs, either personal or commercial, in a personal correspondence. Personal nude photographs are not permitted. Photographs larger than 8½” x 11” are not permitted.
5. Prior Approval: Any individual, who finds it necessary to send or receive material not falling within one of the provisions set out above, can seek prior approval for the material from the managing officer or designee.
6. Third Party Ordering: Individuals on an incarcerated individual’s approved visitor list will be permitted to order printed materials to be delivered to the individual.
 - a. The ordered printed material must be sent directly to the institution by the publisher or distributor, and the package must include a receipt indicating the order number and items(s) purchased.
 - b. The printed materials may be new or used and are subject to security inspection and review.
 - c. Individuals may be prohibited from ordering printed materials to be sent to an incarcerated person when they are removed from their approved visitor list, when they are restricted from visiting the individual, when they order printed materials found to contain contraband or when they repeatedly order excluded printed material. The prohibition on ordering printed materials for an incarcerated person must be approved by the managing officer or designee. In such case, the managing officer shall provide written notice to the incarcerated person and to the prohibited individual. The prohibited individual shall be afforded the opportunity to present their position concerning the prohibition to the managing officer.
 - d. Notice of the physical receipt requirement shall be posted in each institution in an area that is visible to and accessible to visitors. A copy of the Notice is attached as Appendix A.
7. Processing Excluded Material: All printed material is still subject to screening and possible exclusion from the institution under Administrative Rule 5120-9-19, Printed Material.
 - a. If the material is being excluded because it is not from a publisher or distributor and it fails to satisfy one of the exceptions above, then it may be considered contraband. The managing officer or designee shall determine the disposition of contraband pursuant to Administrative Rule 5120-9-55.

- b. If the material is being excluded because it is a threat to rehabilitation of incarcerated individuals, security, good order, or discipline of the institution pursuant to Administrative Rule 5120-9-19, Printed Material, then the material must be screened and disposed of in accordance with the procedures described in that administrative rule.
8. ODRC Internet Materials: Incarcerated individual information photo-copied or printed from the ODRC web page may be excluded if it constitutes a threat to security, order, or discipline, of the institution, is disruptive to institutional operations, or is detrimental to the rehabilitation of incarcerated individuals.

D. Personal Nude Photographs

The possession of personal nude photographs constitutes a threat to the security, order, and discipline of ODRC institutions, is disruptive to institutional operations, and is detrimental to the objectives of rehabilitation of incarcerated individuals. Therefore, incarcerated individuals are not permitted to receive personal nude photographs.

1. Personal nude photographs may be handled as minor contraband pursuant to Administrative Rule 5120-9-55, Contraband, without the necessity of screening pursuant to Administrative Rule 5120-9-19, Printed Material.
2. Material that does not meet the definition of “personal nude photographs” is subject to review and withholding pursuant to Administrative Rule 5120-9-19, Printed Material.

E. Security Threat Group Material

Printed material that by its content is related to a specific Security Threat Group (STG) may be withheld if the presence of that material in an institution is deemed to be detrimental to the security, order, or discipline of the institution or to the rehabilitation of the incarcerated individuals.

1. Within this context, printed material containing depictions of hand signs or other symbols or insignia that appear to be related to an STG may be withheld if:
 - a. The sign or symbol can be related to a specific STG, and;
 - b. Might reasonably be seen as something that might promote or enhance the image or visibility of the STG within the institution;
 - c. Or may be seen as legitimizing gang behavior;
 - d. Or may conflict with departmental efforts to discourage and prevent STG membership and recruitment.
2. Suspected STG printed material shall be referred to the institutional STG coordinator for evaluation of the suspected STG content before initiating the withholding process as established in Administrative Rule 5120-9-19, Printed Material.

3. If the institution determines that withholding is appropriate, then a Notice of Withholding (DRC4147) must be completed and notice must be given to the incarcerated individual.

F. PSC May Request Assistance

If at least three (3) reviewers determine that it would be appropriate to request review of the printed materials by another ODRC employee who is not a PSC reviewer, they may request that another employee make a recommendation whether the material should be excluded or permitted. The employee making the recommendation should not be the same employee who completed the Notice of Withholding (DRC4147). The recommendation may be verbal or written. After receiving the recommendation, the PSC reviewers shall determine whether the material should be excluded or permitted and shall state the basis for that decision. PSC reviewers may not defer their vote to an individual who is not a PSC reviewer.

G. Notice of Unauthorized Item Received (DRC4225)

1. The Notice of Unauthorized Item Received (DRC4225) can be used to identify printed materials that are being withheld because the package does not meet the procedural requirements for receipt at the institution. This form should be used in the following situations:
 - a. The package was ordered by an approved visitor but does not include a receipt that indicates the order number and the item(s) purchased;
 - b. The package was ordered by an individual who is prohibited from sending printed materials packages to the incarcerated person as provided in Administrative Rule 5120-9-19, Printed Materials;
 - c. The package was sent by a publisher or distributor who has been prohibited from sending materials to any institution and was received after the effective date of the prohibition;
 - d. The package was found to contain contraband.
2. If the institution determines that the package does not meet the procedural requirements for receipt, a Notice of Unauthorized Item Received (DRC4225) shall be completed and the incarcerated person will be provided with a copy unless providing the form would compromise an investigation. The form should include a brief description of the item, why the item is being withheld, and the sender (if the sender can be determined). If the item appears to be a third-party order, the form should include information regarding the publisher or distributor and the sender (if the sender can be determined).
3. If the package was withheld for failure to include a receipt indicating the order number and item(s) purchased, the items shall be treated as contraband. The managing officer or designee shall determine the disposition of contraband pursuant to Administrative Rule 5120-9-55, Contraband. The contraband may be returned to the sender, confiscated as evidence, held for the benefit of the incarcerated individual-addressee, or otherwise disposed of in a lawful manner.

H. Donations of Printed Materials

1. Printed materials may be donated to an institution in reasonable quantities, but only directly from a publisher or distributor. Donations of printed materials from other sources may be received only with the prior approval of the managing officer or designee.
2. Printed materials may not be donated to an incarcerated individual without the prior approval of the managing officer or designee.
3. Donated printed materials are subject to security inspection and review.
4. The managing officer or designee shall determine how to utilize printed materials donations made to the institution.
5. The managing officer or designee may reject printed materials donations based on a lack of available space or if the printed materials, or substantially similar printed materials, are already available to the institution.
6. Donated printed materials may be excluded under paragraph (D) of Administrative Rule 5120-9-19, Printed Materials.
 - a. If the managing officer or designee determines that the donated printed material should be excluded from the institution, the donator shall be promptly notified of that decision in writing;
 - b. The written decision shall provide a brief explanation of the reasons for excluding the printed material. The explanation shall be sufficient to inform the donator of the basis for the decision;
 - c. A decision by the managing officer or designee to exclude donated printed materials is final and is not appealable.

I. Disqualification of a Publisher or Distributor from Sending Printed Materials to the ODRC

ODRC institutions cannot create or use 'pre-approved' vendor lists for printed materials. All publishers and distributors can send materials to all institutions, unless the publisher or distributor is prohibited under this policy. Publishers or distributors who are prohibited from sending materials to ODRC will be prohibited at all institutions.

ODRC may prohibit all printed materials from a specific publisher or distributor using the following procedure:

1. If printed materials or the packaging of the printed materials is found to contain contraband, the institution mail office shall create a written report. The written report shall include the following:
 - a. Institution name;
 - b. Nature of the contraband;
 - c. Identification of the publisher or distributor;
 - d. Identification of the printed materials;
 - e. Brief summary of the incident;

- f. Action taken in response to the incident; and
 - g. Names and relevant information regarding each incarcerated individual and/or staff member involved.
2. The written report shall be forwarded to the managing officer or designee and the Office of the Chief Inspector within three (3) calendar days. Additional investigation may be conducted if necessary.
3. If printed materials or the packaging of printed materials received from a publisher or distributor is repeatedly found to contain contraband or if any single printed materials package is found to contain significant contraband, upon receipt of a written report, the Office of the Chief Inspector may recommend to the PSC that the publisher or distributor be prohibited from sending items to the institution.
4. The PSC shall consider the recommendation of the Office of the Chief Inspector, shall review the written report(s) and any accompanying information within a reasonable time. The PSC shall determine whether the publisher or distributor shall be prohibited, and whether the prohibition will apply for a specified period or for an indefinite period. The PSC may request an additional investigation or documentation before reaching its decision. A publisher or distributor can only be prohibited if at least three (3) members of the PSC determine that prohibition is appropriate.
5. If the PSC determines that the publisher or distributor shall not be prohibited, the Office of the Chief Inspector shall be notified in writing.
6. If the PSC determines that the publisher or distributor shall be prohibited, that decision, the length of the prohibition, and its basis shall be forwarded in writing to the Office of the Chief Inspector and to the managing officer of all institutions. The decision and basis shall also be provided to the publisher or distributor in writing.
7. The prohibition of a publisher will become effective on the date that the PSC notifies the Office of the Chief Inspector and managing officers. The prohibition shall apply to all ODRC institutions. Any materials received from a prohibited publisher or distributor on/after the effective date of the prohibition may be disposed of as set forth in paragraph (M) of Administrative Rule 5120-9-19, Printed Materials.
8. A prohibited publisher or distributor may submit a response to the prohibition and a request for reconsideration within thirty (30) calendar days of the notification of prohibition. The PSC will review and respond to the publisher or distributor within sixty (60) calendar days of receipt of the response.

Related Department Forms:

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| Notice of Withholding | DRC4147 |
| Notice of Unauthorized Item Received | DRC4225 |

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Appendix A

ORDERING PRINTED MATERIALS FOR INCARCERATED INDIVIDUALS

- A. Only individuals on an incarcerated individual's approved visitor list will be permitted to order printed materials to be delivered to the individual.
- B. The package MUST be sent directly to the institution from a publisher or distributor.
- C. The package MUST include a physical receipt that includes the order number and the item(s) purchased.
- D. Printed materials may be new or used.
- E. All printed materials are subject to security inspection and review.
- F. Printed materials may be withheld if they appear to or are found to contain contraband, do not contain a receipt, were ordered by an individual who is not on the approved visitor list, were sent by a prohibited publisher or distributor, violate ODRC's Administrative Rule regarding permissible content – Ohio Administrative Code 5120-9-19, Printed Materials, or are otherwise determined to be a threat to the security and good order of the institution.