



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-121000 Legal Access	Issued: 3/27/89 Effective: 4/3/89	Reviewed: 01/20/2023 Revised: 01/20/2023
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Policy *CD-010100*

REFERENCES:

- A. Lewis v. Casey 116 S. Ct. 2174 (1996)
- B. NMSA 1978, Section 14.2.1, Inspection of Public Records Act, as amended.
- C. ACA Standards 2-CO-3C-01, *for the Administration of Correctional Agencies*, 2nd Edition.
- D. ACA Expected Practices 5-ACI-3D-01, 5-ACI-3D-03, *Performance Based Expected Practices for Adult Correctional Institutions*, 5th Edition.

PURPOSE:

To establish rules that will ensure that all inmates have direct access to the courts in allowable legal actions.

APPLICABILITY:

All employees of New Mexico Corrections Department (NMCD) and contract facilities, especially Education staff and all incarcerated inmates.

FORMS:

- A. **Inmate Request for Legal Access** form (*CD-121001.1*)
- B. **Request/Authorization for Copying Qualified Legal Materials** form (*CD-121001.2*)
- C. **Staff Response to Inmate Request for Legal Assistance/Meeting** form (*CD-121001.3*)

ATTACHMENTS:

- A. **List of Appendices and Forms** Attachment (*CD-121001.A*)
- B. **Legal Texts and Resource Materials** Attachment (*CD-121001.B*)
- C. **Court Form Packet** Attachment (*CD-121001.C*)
- D. **Qualified Legal Materials Copying** Attachment (*CD-121001.D*)
- E. **Number of Copies to be Made of Qualified Claims** Attachment (*CD-121002.A*)

DEFINITIONS:

- A. Access To The Courts: Inmates shall not be barred from the courts and the Department shall, when written requests are made, assist inmates in the preparation and initial filing of (1) direct appeals from the convictions for which they were incarcerated, (2) Habeas Corpus petitions (§

2254 in Federal Court and NMSCRA Rule 5-802 in State Court), (3) §1983 civil rights actions, (4) conditions of confinement actions, (5) state tort complaints concerning conditions of confinement and (6) Divorces (with or without children).

1. Active Assistance - Assistance provided to inmates by designated staff.
2. Passive Assistance - Assistance available to inmates through resource materials to which they are directed.

B. Attorney: An attorney-at-law:

1. Licensed to practice law in any state or federal jurisdiction.
2. Has been retained by the inmate or has been appointed to represent the inmate, as evidenced by a court record, court order or by the inmate's written authorization.
3. Shall not include anyone who is on the inmate's general visiting list.

C. Civil Rights: Rights guaranteed by the United States' Constitution.

D. Debit: An immediate withdrawal of funds from an inmate's account.

E. Designated Staff: The NMCD employee(s) appointed by the Director Recidivism Director at each facility to be responsible for such duties as outlined in this Department policy. Designated Staff will include both Civilian Paralegals/Legal Assistants and non-paralegals trained in these policies.

F. Habeas Corpus: A writ by which a party attempts to obtain release from confinement.

G. Hold: A restriction on an inmate's account or funds based upon a financial obligation owed by the inmate, which restriction remains until the obligation is paid.

H. Initial Filing: The filing of a complaint, pleading or petition with a court of law to begin a legal action in that court. An initial filing also includes the filing of all notices or other documents that may be required prior to the filing of the pleading or petition, including the initial filing of amended complaints or petitions.

I. Statewide Legal Access Monitor: A Department employee with legal or paralegal training with responsibility to oversee the legal access program.

J. Legal Mail: Any letters, pleadings, or legal documents to or from an inmate's attorney of record, a judge, a court of law, or an opposing attorney.

K. Petition: A written request that the court exercise its authority to redress a wrong.

L. Pleading: For the purpose of this policy, a pleading refers to a Notice of Appeal pursuant to Rule 12-201 NMRA; the initial filing of a Petition for Post-Conviction and related forms, pursuant to Rule 5-802 NMRA; a Petition for Review pursuant to Rule 12-502 NMRA; a Petition for Writ of Habeas Corpus in State or Federal Court (NMSCRA Rule 5-802 for State and §2254 for Federal); a civil rights complaint or condition of confinement complaint in State

or Federal Court, or a State Tort Complaint concerning conditions of confinement and other related motions, responses, discovery matters and letters to the court in connection with the above pleadings.

- M. Post-Conviction Relief (Rule 5-802 NMRA): The process through which a party seeks relief from a sentence imposed on the party by a court of law.
- N. Privileged Correspondence: Any correspondence:
- To or from an attorney who the inmate is attempting to return services from;
 - Recognized agencies that provide legal assistance; and,
 - Law enforcement agents or agencies.
- O. Qualified Legal Claims: In the direct appeal, any claim of error; in the Post Conviction Relief proceeding, any non-precluded claim set forth in Rule 5-802 NMRA; and in Federal Court, any claim of error based on a violation of the federal constitution or law. Forms include the:
- Notice of Appeal from the District Court (state court);
 - Writ of Habeas Corpus,
 - Writ of Certiorari,
 - §2254 Petition for a Writ of Habeas Corpus in Federal Court;
 - A civil rights action or condition of confinement claim (42 U.S.C. § 1983 and Rule 1-1076 NMRA);
 - State Tort Complaint concerning conditions of confinement;
 - Divorce proceedings (with and without children);
 - Power of Attorney (general and for minor children);
 - Writ of Mandamus;
 - Last Will and Testament.
- P. Qualified Legal Material: Any document that meets the definition of a Qualified Legal Claim, plus related motions, responses, discovery matters and letters to the court in connection with the qualified legal claims.
- Q. Writ: A written judicial order to perform a specified act or giving authority to have a specified act done.

POLICY: [5-ACI-3D-03] [2-CO-3C-01]

The Corrections Department shall ensure that all inmates have direct access to the courts in all legal

claims involving direct appeals from the conviction for which they are incarcerated, NMSCRA Rule 5-802 and §2254 habeas corpus petitions, §1983 Civil Rights Actions, civil rights actions regarding their conditions of confinement and state tort claims arising out of their confinement. **[5-ACI-3D-01]**

The Department facilitates this access by making forms and specific legal assistance available to the inmate population for qualified legal claims. The system is designed to maximize inmates' opportunity to present qualified legal claims to the State or Federal court in a timely, efficient manner with no barriers.

This policy establishes the process to be used by inmates for gaining access to the courts and also describes the role of all parties involved. This policy sets forth all affirmative steps that the Department shall take to assist inmates in obtaining access to the courts. This policy prohibits inmates from providing legal assistance to other inmates related to qualified legal claims.

This process does not affect the inmates' ability to independently pursue actions on their own or to obtain outside counsel to represent them.



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-121001 Legal Access	Issued: 3/27/89 Effective: 4/3/89	Reviewed: 01/20/2023 Revised: 01/20/2023
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Policy *CD-010100*

PROCEDURES: [5-ACI-3D-01][5-ACI-3D-03][2-CO-3C-01]

A. Responsibility:

The Statewide Legal Access Monitor shall monitor inmate legal access to the courts system in all facilities to ensure that the assistance provided to inmates by designated staff conforms to all Department written instructions and contract provisions.

B. System Overview:

Inmates shall have direct access to the courts through the mail.

Qualified Legal Claim - Inmates who do not possess the requisite competence to file pleadings or to complete District Court/state forms without assistance may:

1. Contact an attorney directly, at the inmate's expense;
2. Request the court to appoint an attorney to represent them; or,
3. Obtain active assistance through the Department from Designated Staff (See paragraph J, below).

C. Legal Research:

This Legal Access system is designed to provide for initial, general legal research; no provision is made in this system for extensive, specialized legal research.

D. Inmate Legal Assistants and Law Clerks:

There is no provision in this policy for an inmate legal assistance or inmate law clerk program.

E. Right to Retain Counsel:

This system does not interfere with an inmate's right to retain counsel.

1. Inmates may hire private attorneys, avail themselves of pro bono services or seek a court-appointed attorney.
2. Nothing in this system suggests that inmates may retain someone other than a licensed attorney for legal purposes.
3. The Legal Access Program is not responsible for providing inmates with attorney names and addresses, but attorney addresses and phone numbers may be obtained by submitting a written request through the General Library (if attorney's name is known).
4. Inmates that are represented by an attorney are not eligible for legal assistance, legal supplies or photocopying for the cause for which they have legal representation.

F. Access to Legal Resources:

All institutions shall provide access to the legal resources as required by this policy.

G. Approved Department Forms and Other Documentation:

Staff and inmates shall use only the Department forms authorized by this policy to request services or report information about this legal access system. All other requests will be returned. If additional forms are required, they shall be developed and submitted to the General Counsel or his/her designee for approval.

H. Legal Resources and Accommodations:

1. The Legal Resources identified in the **Legal Texts and Resource Material** Attachment (*CD-121001.B*) are presently available for inmate use. Any additions or deletions to the legal texts and resource material identified in the **Legal Texts and Resource Material** shall be subject to approval by the General Counsel or designee.
2. All legal reference texts and manuals available for use by inmates shall be kept in the Reserve/Reference section of the General Library or in the Designated Staff Office, under the control of designated staff, and shall be used only in the General Library, with the exception noted in this policy.
 - a. No legal resource material except for such material as set forth in this policy shall be provided.
 - b. No older versions of the law or policies shall be retained or possessed.
3. Inmates who visit the General Library may check out legal texts, manuals and other legal reference material for a specified period of time in accordance with Department and Facility Policy.
 - a. Each book shall have a check out card or other tracking method as determined by facility librarian and designated staff on which inmates shall write their name and

NMCD number. Inmates shall leave their identification card with designated staff, to be returned to them when they return the book or complete a debit memo. Inmates shall not use another inmate's identification card.

- b. Under special circumstances and in accordance with the local institution policy, an inmate may obtain legal texts and resources for use outside the General Library. A Debit Memo shall be completed and maintained until the return of the checked out texts.
4. The Statewide Legal Access Monitor shall provide designated staff with a supply of current court forms as identified in the **Court Form Packet** Attachment (*CD-121001.C*). The inmate shall pay for copies of these court documents in accordance with Procedure CD-121201, paragraph (C).
5. Inmates may use the forms provided for qualified legal claims or their own pleadings, motions and other legal documents using their own paper and envelopes.
6. The Department shall not supply inmates with forms, documents or any legal materials from other states. It shall be the duty of the inmate to contact the appropriate authority in that state to request any forms, documents or legal materials from that state.
7. The Department shall ensure that inmates have access to the name and address of the New Mexico State Courts and Federal District/Appellate Courts. These addresses shall be made available to inmates.
8. The Department shall not make computers available to inmates in the General Library for the purpose of enabling inmates to do legal work with the exception of reviewing court transcripts for current cases. Typing paper and other typing supplies will not be supplied. New Mexico State and all Federal Courts accept hand written documents.
9. The institution shall make available the equipment that is necessary to view and or listen to current trial transcripts.

I. General Responsibility:

Inmate legal access to the courts system relies on four specific groups of individuals, with general responsibility as follows:

1. Designated Staff - These staff members shall be responsible for:
 - a. Cataloging and maintaining legal resources in the Reserve/Reference section of the General Library; signing out legal texts to inmates for use only in the General Library; keeping track of legal texts to prevent/minimize loss;

reordering legal texts, as necessary, to replace missing texts and ordering updates as they become available from the publisher; making texts available for inmates who have limited access to the General Library; and, maintaining records.

- b. Coordinating, with institution staff, the scheduling of appointments for inmates' legal assistance meetings and ensuring that inmates are made aware of the date and time of their appointment.
- c. Designated staff shall work closely with security/other staff to arrange for legal assistance meetings with inmates. Designated staff shall be allowed to remain and work in the facilities in order to complete appointments.
- d. Photocopying or supervising the photocopying of all qualified legal claims.
- e. Processing inmate requests for services including: notary services, copies of the court forms identified in Attachment B and other chargeable services in accordance with Policy *CD-121201*, paragraph C. Designated Staff should respond to all requests within six (6) working days of stamped receipt.
- f. Facilitating the delivery of notary services, copies or other chargeable services in accordance with Policy *CD-121201* paragraph C.
- g. Providing assistance to the inmate in obtaining forms for qualified legal claims or having photocopies made of qualified legal materials, whether on provided form or inmate hand drafted.
- h. Assisting illiterate inmates who request assistance in the actual preparation of their initial pleadings or petitions for filing with the courts.
- i. Providing bilingual services, as required.
 - 1) A teleconference with a bilingual interpreter is permissible.
 - 2) Certified interpretation is not required.
- j. Making the determination as to what legal documents require photocopying and the number of copies to be made in matters involving qualified legal claims (following *CD-121201.A*). Designated staff shall consult with the Statewide Legal Access Monitor if a question or problem arises.
- k. Contacting the Statewide Legal Access Monitor if they have any questions themselves pertaining to the inmate access to the court system.
- l. Contacting the Warden or designee with questions concerning institutional activity, coordination, etc.
- m. Complying with Department Policies and other Department written instructions, as identified in their contract, as well as the terms and conditions of their contract.
- n. Designated staff shall not:

- 1) Practice law, represent an inmate in administrative proceedings, or make referrals.
 - 2) Aid inmates in any matter, legal, quasi-legal or non-legal that does not involve qualified legal claims.
 - 3) Assist inmates in qualified legal claims beyond the initial filing of their pleadings with the courts, except as listed in attachment *CD-121001.D*.
2. Statewide Legal Access Monitor - The Statewide Legal Access Monitor shall be responsible for:
- a. Providing system-wide monitoring and operational oversight of the inmate legal access to the court system.
 - b. Ensuring that designated staff is assisting inmates on matters involving qualified legal claims only and only at the initial pleading stage.
 - c. Resolving questions designated staff may have concerning the inmate legal access to the court system.
 - d. Ensuring designated staff are trained to provide current legal access functions, are adhering to all contract provisions and are following Department written instructions in assisting inmates.
 - e. Conducting annual site visits at each facility to monitor the activities of the Designated Staff, overseeing the operations of the inmate access to courts system, and reviewing legal resource material to ensure that it is up-to-date and complete.
 - f. Ensuring accommodations and arrangements are being made for special needs inmates.
 - g. Making recommendations to the Director Recidivism Reduction to either purchase additional sets of legal resource materials or eliminate resource materials, as appropriate.
 - h. Performing other duties, as assigned.
3. NMCD Attorneys - shall be responsible for responding to questions from the Statewide Legal Access Monitor.
4. Inmates - may use the resources available through this inmate legal access policy to access the court system for qualified legal claims.
- a. An inmate shall only request legal assistance from the designated staff to work on his/her own qualified legal claim (current or pending).
 - b. Inmates may not assist other inmates with qualified legal claims. Doing so shall result

in a disciplinary action in accordance with Policy *CD-090101*, Attachment B, offense B.

- c. The Department shall not establish or promote a legal assistant/law clerk program that uses inmates to provide such assistance.
- d. Inmates who have been found charging or bartering in exchange for legal services, or who have been found to be creating a security problem by assisting inmates with non-qualified legal claims may be disciplined.
- e. No inmate shall be allowed to assist another inmate if the Warden or Deputy Warden determines that a potential or existing security problem has developed or may develop, or that allowing such assistance may detrimentally impact institutional resources and/or operations.
- f. Inmates shall not possess, store or mail other inmates' legal paperwork. Such actions may result in disciplinary actions in accordance with Policy *CD-090101*, Attachment B, offense B.15.
- g. Inmates shall be responsible for mailing legal materials in accordance with Policy *CD-151200*, Inmate Correspondence. Designated staff shall not mail or otherwise place mail in facility mail boxes for the inmate.
- h. Inmates shall attempt to resolve issues related to this policy or their legal access to the courts system through designated staff before contacting the Statewide Legal Access Monitor.

J. Legal Assistance:

Inmates may receive assistance in the initial filing of pleadings involving qualified legal claims from the designated staff provided by the Department. Designated Staff will not do legal research, give any form of legal advice or be responsible for either mailing or faxing legal materials.

1. Inmates desiring legal assistance shall complete an **Inmate Request for Legal Access** form (*CD-121001.1*), available only from designated staff. The request shall include a plain, concise description of the qualified legal claim and the type of assistance requested. Illiterate and non-English speaking inmates shall contact designated staff who shall help them complete the form. Inmates serving their sentences in a NMCD facility pursuant to Interstate Corrections Compact and concurrent custody agreements shall make the request in accordance with this policy.
 - a. If the issue involves § 1983 civil rights or conditions of confinement, the inmate shall have first attempted to resolve the issue through the inmate grievance process, in accordance with Policy *CD-150500*, Inmate Grievances.

If the inmate has not attempted to resolve the issue through the inmate grievance process, the designated staff shall notify the inmate that the court may dismiss the

inmate's suit if the inmate fails to exhaust the administrative remedies available through the inmate grievance system. However, staff shall not prohibit the inmate from filing a complaint even if the inmate has failed to exhaust administrative remedies available through the grievance procedure.

2. Once the inmate has completed his/her portion of the form, the form shall be placed in a designated drop box or tray (i.e. the facility legal mail box).
3. Designated staff shall accept, sign and date the **Inmate Request for Legal Access** form (*CD-121001.1*) along with any attached documents.
4. The designated staff shall review each request and determine whether the matter described involves a qualified legal claim.
 - a. If a request is unclear, a meeting may be scheduled with the requesting inmate to determine whether the request is a qualified legal claim.
 - b. If the request does not involve a qualified legal claim, the designated staff shall not provide assistance and shall return the request to the inmate with an explanation that the request does not meet the definition of a qualified legal claim.
5. The designated staff shall keep a copy of the request.
6. Designated staff shall work with security staff in scheduling days and hours when the inmate meeting may be scheduled, based upon inmate population, the volume of requests, quick access, court deadlines and appropriate attention to security issues.
7. Designated staff shall schedule an appointment and notify the inmate by completing the appointment section of the **Staff Response to Inmate Request for Legal Assistance/Meeting** form (*CD-121001.3*) and forwarding a notification copy to the inmate. Designated staff shall keep the file copy of the request and forward a copy to the Statewide Legal Access Monitor. Inmate appointments for scheduled legal assistance meetings shall not be suspended except when a legitimate security concern exists to do so.
8. Designated staff shall meet with inmates to provide necessary assistance with preparation of the initial pleading for filing. However, for New Mexico inmates in other states who are serving sentences pursuant to Interstate Corrections Compact or concurrent custody agreements and who request assistance with the preparation of an initial pleading, Designated Staff shall ensure that one copy of the appropriate sections of legal references, forms and instructions are mailed to the inmate at NMCD expense.
 - a. Designated staff shall not provide assistance beyond the initial filing stage.
 - b. The designated staff may authorize copying of documents in accordance with Policy

CD- 121002, paragraph C, by completing the appropriate authorization requests.

- c. The designated staff may request additional meetings, as necessary. If additional meetings are required, designated staff shall schedule the meeting using a **Staff Response to Inmate Request for Legal Assistance/Meeting** form (*CD-121001.3*)
9. Staff shall not retaliate against an inmate for requesting assistance from designated staff or for exercising any other legal privilege pursuant to this policy nor shall they retaliate against an attorney, agent of an attorney or any other person for exercising any privilege pursuant to this policy.
10. Designated staff shall:
 - a. Direct questions concerning this inmate access to the court system policy to the Statewide Legal Access Monitor.
 - b. Immediately report suspected abuses of the inmate legal access policy to the Warden or Deputy Warden for review and resolution, ensuring that the Statewide Legal Access Monitor is also advised.
11. New Mexico inmates in other states who are serving sentences pursuant to Interstate Corrections Compact and concurrent custody agreements may, upon written request addressed to the Interstate Corrections Compact Staff or Statewide Legal Access Monitor's office, receive legal assistance for a qualified claim. Upon receipt of the inmate's written request, the Administrator shall notify the Statewide Legal Access Monitor.

The Statewide Legal Access Monitor shall forward the inmate's request to designated staff, which shall provide assistance, via the mail, for post-conviction relief claims and condition of confinement/civil rights claims that arose in New Mexico. Any claim pertaining to conditions of confinement outside of New Mexico shall be filed in the state where the inmate is confined. Mailings shall be made by the Interstate Corrections Compact staff at the expense of Prison Operations.

K. Special Needs Inmates:

1. Accommodations shall be made, as needed, to ensure access to the courts for inmates with special needs, to include inmates who are illiterate, non-English speaking, or disabled. Accommodation may include providing a tele-conference with a bilingual interpreter and designated staff.
2. Arrangements shall be made for inmates who have limited access to the General Library to review legal resource materials, or to obtain forms or photocopies.

L. Legal Supplies:

Legal supplies are those supplies actually used for qualified initial claims. The Department is

not required or expected to provide supplies for non-qualified legal claims or for personal/private use. Envelopes will be provided only for qualified legal materials, as identified on the **Qualified Legal Materials Copying** Attachment (*CD-121001.D*) and only in the number needed to send to the Court and Defendants. Envelopes for qualified copies will only be provided at the time of photocopying and not otherwise. Any photocopies not made by Designated Staff or any inmate hand drafted copies will not be provided envelopes, with no exceptions.

M. Legal Property:

Inmates will be allowed to retain legal materials along with all other property as will fit in two state issued foot lockers. All excess legal property must be mailed out at the inmate's expense or be destroyed. Inmates may be permitted to maintain personal legal books and materials for pending or current legal claims in their housing location, if in accordance with the inmate property policy. The General Library will not store excess inmate legal material. To the extent that this paragraph (*CD-121001.M.*) conflicts with any other CD Policy regarding legal property, this policy will take precedence.



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-121002 Authorized Legal Photocopying	Issued: 3/27/89 Effective: 4/3/89	Reviewed: 01/20/2023 Revised: 01/20/2023
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Policy *CD-121000*

PROCEDURE:

- A. Photocopying services shall be available and a photocopying machine shall be located in the institutional Education departments to photocopy legal materials.
- B. All requests for the copying of qualified legal materials shall be made to the designated staff. Only designated staff shall make copies of qualified legal materials.
- C. Each inmate shall be responsible for the payment of charges related to services received. The price for individual services, forms or copies shall be subject to periodic review and adjustment by the Secretary of Corrections or a designee.
- D. All revenues on each transaction will be used to defray the costs of equipment, equipment maintenance and supplies.
- E. A copy of all non-confidential policies shall be made available for review by inmates in the Reserve/Reference section of the General Library, under the control of designated staff, and shall be used only in the General Library, with the exception noted in this policy.

F. **Availability of Photocopying Services:**

Photocopying services shall be available and a photocopying machine shall be located in the institutional Education departments.

1. Only requests for photocopying qualified legal materials regarding qualified legal claims shall be granted. (See Policy *CD-121001 Attachment CD-121001.C*) The **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) shall have the same effect as an Inmate Debit Memo (i.e. provides the inmate's authorization for their account to be debited for chargeable services in accordance with this policy).
2. All requests for copying legal materials shall be made to the designated staff person only. The designated staff shall ensure that the material requested for copying is qualified to be copied.

B. **Qualified Legal Claims Copying**

All requests for copying involving qualified legal claims shall be reviewed by designated staff prior to copying by using the following process:

1. To request photocopies, the inmate shall complete the appropriate section of a **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) and shall submit the request with the documents to be copied attached (including a copy of the pleading if the documents to be copied are intended as an appendix), in person, to designated staff. Failure to attach sufficient documentation to enable designated staff to determine if documents are qualified may result in a delay. The designated staff shall deny a request that is vague or does not substantiate a qualified legal claim. It shall then be necessary for the inmate to submit another request with sufficient documentation.

In the event that the inmate is obtaining active assistance from designated staff and has completed the pleading in the presence of designated staff, the designated staff shall complete the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) and submit it with the pleading directly for photocopying.

2. Designated staff shall sign and date the form and provide the inmate a copy of the request as a receipt. Designated staffs are not responsible to provide additional copy request receipts or to replace lost or destroyed copy request receipts.
3. Designated staff shall review the packet to determine which documents shall be copied and how many copies are to be made. Documents that violate prison rules (e.g. gang symbols, instructions regarding illegal activities, etc.) shall not be copied. These documents shall be turned over to security staff or the STIU Coordinator for further investigation.
4. If department policy compliance interpretation is needed, then designated staff shall consult with the Statewide Legal Access Monitor.
5. Designated staff shall:
 - a. Contact the Inmate Accounts Office to determine the inmate's account balance to ensure that the inmate has paid for the copies or that the account has been placed on hold in accordance with this policy, (If the payment has been made or the account has been appropriately placed on hold), and make photocopies in accordance with the notations on the request form.
 - 1) Photocopies shall be made; if possible, within three (3) workdays of ensuring the request is qualified. Extra time may be necessary for extensive copying requests. Maximum numbers of copies are listed in **Number of Copies to be Made of Qualified Claims** Attachment (*CD-121201.A*).
 - 2) All legal documents submitted for photocopying shall not be censored, but may be read to the extent required to establish that the contents of the document are qualified and do not contain contraband.
6. Refrain from photocopying any documents if it is determined that the inmate's account balance is insufficient to cover the entire service charge and any hold placed on the inmate's account for the services would cause the inmate to owe the Department an amount exceeding \$300.00 from any source.



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

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AUTHORITY:

Policy *CD-121200*

PROCEDURES:

A. Availability of Photocopying Services:

Photocopying services shall be available and a photocopying machine shall be located in the institutional Education departments.

1. Only requests for photocopying qualified legal materials regarding qualified legal claims shall be granted. (See Policy *CD-121001 Attachment CD-121001.C*) The **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) shall have the same effect as an Inmate Debit Memo (i.e. provides the inmate's authorization for their account to be debited for chargeable services in accordance with this policy).
2. All requests for copying legal materials shall be made to the designated staff person only. The designated staff shall ensure that the material requested for copying is qualified to be copied.

B. Qualified Legal Claims Copying

All requests for copying involving qualified legal claims shall be reviewed by designated staff prior to copying by using the following process:

1. To request photocopies, the inmate shall complete the appropriate section of a **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) and shall submit the request with the documents to be copied attached (including a copy of the pleading if the documents to be copied are intended as an appendix), in person, to designated staff.

In the event that the inmate is obtaining active assistance from designated staff and has completed the pleading in the presence of designated staff, the designated staff shall complete the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) and submit it with the pleading directly for photocopying.

2. Designated staff shall sign and date the form and provide the inmate a copy of the request

as a receipt. Designated staffs are not responsible to provide additional copy request receipts or to replace lost or destroyed copy request receipts.

3. Designated staff shall review the packet to determine which documents shall be copied and how many copies are to be made. Documents that violate prison rules (e.g. gang symbols, instructions regarding illegal activities, etc.) shall not be copied. These documents shall be turned over to security staff or the STIU Coordinator for further investigation.
4. If department policy compliance interpretation is needed, then designated staff shall consult with the Statewide Legal Access Monitor.
5. Designated staff shall:
 - a. Contact the Inmate Accounts Office to determine the inmate's account balance to ensure that the inmate has paid for the copies or that the account has been placed on hold in accordance with this policy.
 - 1) Photocopies shall be made; if possible, within three (3) workdays of ensuring the request is qualified. Extra time may be necessary for extensive copying requests. Maximum numbers of copies are listed in **Number of Copies to be Made of Qualified Claims** Attachment (*CD-121201.A*).
 - 2) All legal documents submitted for photocopying shall not be censored, but may be read to the extent required to establish that the contents of the document are qualified and do not contain contraband.
 - b. Refrain from photocopying any documents if it is determined that the inmate's account balance is insufficient to cover the entire service charge and any hold placed on the inmate's account for the services would cause the inmate to owe the Department an amount exceeding \$300.00 from any source.
 - c. Refrain from photocopying any documents if not qualified. Non-qualified documents include but are not limited to case law, statutes and policies from any source. The inmates shall have NMCD policies, except for confidential policies, available for review. This does not prohibit an inmate from purchasing a copy of a non-security policy from the designated staff member at a cost of \$0.50 per copied side with prepayment required. Administrative documents (e.g. grievance and response) shall not be copied unless marked as and attached as an exhibit to a qualified legal claim.
 - d. Arrange for a meeting with the inmate, if necessary.
6. Designated staff shall keep a copy of the request and:
 - a. Forward a copy of the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) together with the photocopied material to the inmate.
 - b. Return the materials, above, to the inmate if the request was denied. All contraband materials will be turned over to STIU.

- c. Forward the signed **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) to the Inmate Account Office if the material is to be photocopied.
 - d. Forward a copy of the legal access log of all requests for qualified legal claim copying to the Statewide Legal Access Monitor on a weekly basis.
7. The designated staff's decision is final. Inmates may present concerns regarding legal claim copying to the Statewide Legal Access Monitor through designated staff using the **Inmate Request for Legal Access** form (*CD-121001.1*) from Policy *CD-121000*.
 8. The inmate shall be responsible for payment of all copies made.

C. Charges – Qualified Legal Claims

All inmates shall be responsible for payment of services related to qualified legal claims.

1. For issues relating to qualified legal claims, the service requested shall be provided in accordance with designated staff's notation on the request.
2. If the inmate has funds available, the entire cost of the service shall be promptly deducted from the inmate's account.
3. If the inmate does not have sufficient funds available to cover the cost of the service, the inmate's account shall be placed on hold until such time as the debt is paid, provided that, no inmate's account shall be placed on hold for any legal claim photocopying if the services amount will cause the inmate to owe the Department more than \$300.00. The \$300.00 limit is applicable whether or not the owed amount is related to legal claim photocopying or any other debt that the inmate owes to the Department.
4. If an inmate has insufficient funds to cover the services charge and a hold to cover the cost would result in the inmate owing the Department more than \$300.00, the **Request/Authorization for Qualified Legal Claim Copying** shall be denied. Designated staff shall mark the request denied due to insufficient funds and return it along with all accompanying materials to the inmate.
5. Chargeable services include, but are not limited to:
 - a. Qualified legal claim photocopying, including required court forms, other attachments or other documentation. (.25 per copied side)
 - b. Notary services related to qualified legal claims (\$1.00 per notary).
 - c. Court forms listed on the **Legal Texts and Resource Materials** Attachment (*CD-121001.B*). (There is no charge for the initial blank form requested, or for two

subsequent blank forms requested of the same pleading.)

- d. Purchase of non-security policy. (.25 per copied side)
6. An inmate who is requesting any service relating to qualified legal claims shall complete and deliver to designated staff the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) in the amount necessary to completely pay the requested service at the time designated staff perform the service or arrange for delivery of the service. For photocopies and notaries, the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) shall have the same effect as an Inmate Debit Memo (i.e. provides the inmate's authorization for their account to be debited for chargeable services in accordance with this policy).
7. Designated staff shall submit the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) to Facility Inmate Accounts when the service has been provided to the inmate. Designated staff shall indicate on the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) that the service is for qualified legal claims.
8. Facility Inmate Accounts shall:
 - a. Upon receipt of the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*), determine if the amount stated in the request form exceeds the amount of funds available in the inmate's account.
 - 1) If sufficient funds are available, ensure that the inmate's account is debited or that the inmate's account is placed on hold.
 - 2) If the inmate has insufficient funds to cover the request and/or a hold for the amount would cause the inmate to owe the Department more than \$300.00, the Inmate Accounts Office shall refrain from placing a hold on the account; and immediately notify designated staff of the funds deficiency, advise them that a hold will not be placed on the account, and inform them not to proceed with the legal claim photocopying.
 - b. Ensure that the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) serves as documentation for the hold or request for payment.
 - c. Ensure that funds collected are deposited in the appropriate account in accordance with New Mexico Corrections Department policy.
9. The charge for any document, including copies of court forms listed on Attachment B, a photocopy of a document or form, or any other form published by another agency or court (normally available and provided by the Department) is \$0.25 per printed side for all copies made.

10. The charge for Notary Public services shall be \$1.00 per original notarized document, pursuant to *NMSA 14-12A-16*. Inmates receiving Notary Public services in a State or Private facility will be charged the \$1.00 fee even if the document to be notarized is related to a qualified legal claim.
11. The price charged for individual services, forms or copies should be subject to periodic review and adjustment by the Secretary of Corrections or his designee.

D. Distribution of Photocopy Costs Collected:

All revenues on each transaction will be used to defray the costs of equipment, equipment maintenance, and supplies (including toner and paper) and will be forwarded monthly to the NMCD General Fund.

NEW MEXICO CORRECTIONS DEPARTMENT
Inmate Request for Legal Access

Please PRINT information in all areas clearly.

INMATE NAME (Last, First, M.I.)	NMCD Number	Institution	Unit/Cell
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Briefly describe your legal problem or question. (Use a blank sheet of paper if additional room is needed.)

Date of Court imposed deadline, if known: _____

Type of assistance requested (check all that apply)

_____ Legal materials: policies, rules, statutes, legal texts (specify in following box)*

_____ Form packet: Tort ; State Habeas ; Civil Rights ; Federal Habeas ; State Appeal

_____ Divorce (w/children) ; Divorce (w/o children) ; Power of Attorney (General) ;

_____ Power of Attorney (Minor Children) ; Last Will & Testament

_____ Meeting with paralegal (specify reason for meeting in following box)*

_____ Copying for qualified legal claims (specify in following box)*

_____ Notary service for qualified legal claims that require notarization

*Specify requested services or materials. Specify what you want copied and which category of qualified legal claim:

Inmate Signature	Date
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Designated Staff Name (Last, First, M.I.)	Designated Staff Signature	Date
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Review and Disposition

Approved. Response by Mail. _____ Form Packets _____ Policies _____ Statutes

Approved. Requestor will be called in for a meeting. _____ Copies _____ Books _____ Notary Meeting

Disapproved. Your complaint does not involve a qualified legal claim.

Unclear Request. Please explain what you are requesting in more detail on enclosed form.

Unless disapproved, your appointment with the Designated Staff has been scheduled for date: _____

at time _____ am/pm at location _____.

Staff Signature _____ Date _____

Please bring this authorization and all related documents to the meeting.

Verification of meeting:

Designated Staff Name (Last, First, M.I.)	Designated Staff Signature	Date
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Inmate Signature	Date
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NEW MEXICO CORRECTIONS DEPARTMENT
Request/Authorization for Copying Qualified Legal Materials

Please PRINT information in all areas clearly.

Inmate Name (Last, First, M.I.)		NMCD NUMBER
Institution	Unit/Cell	Date

List each document separately. Form packages count as one item. Unrelated exhibits count separately.

ATTACH DOCUMENTS			DESIGNATED STAFF - APPROVED			
No.	Document Name	Number of Pages	Number of Copies	Number of Pages	Number of Copies	√ Unmodified
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

Request received for Action.

Designated Staff Name (Last, First, M.I.)	Designated Staff Signature	Date Received	Date Forwarded
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I have reviewed the request for legal copying. The request is:

- Approved for copying: Unmodified
- Approved for copying: Modified as indicated above.
- Approved for Notary Services.
- Disapproved for copying: not qualified legal matter.**
- Disapproved for copying: insufficient funds to cover services cost.**
- Designated Staff requests meeting with inmate – approval suspended until inmate called in for meeting.

Number of copies made _____ @ \$ 0.25 each = TOTAL _____		
Number of notaries made _____ @ \$ 1.00 each = TOTAL _____		
Designated Staff Name (Last, First, M.I.)	Designated Staff Signature	Date
Inmate Name (Last, First, M.I.)	Inmate Signature	Date

NEW MEXICO CORRECTIONS DEPARTMENT
Staff Response to Inmate Request for Legal Assistance/Meeting

Inmate Name (Last, First, M.I.)	NMCD Number	Institution	Unit/Cell
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Use the space below to respond to the inmate request for assistance and staple to request.

Designated Staff's Name (Last, First, M.I.)	Designated Staff Signature	Date
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Date Mailed: _____. If a meeting is held, inmate needs to sign below and date.

Inmate's Name (Last, First, M.I.) & Number	Inmate Signature	Date
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Inmates need to bring this response form and all necessary documents when called out for a meeting.

NEW MEXICO CORRECTIONS DEPARTMENT

List of Appendices and Forms

ATTACHMENTS

- A. List of Appendices and Forms
- B. Legal Texts and Resource Material
- C. Court Forms Packets
 - 1. State Appeal Packet
 - 2. Federal §1983 Forms packet.
 - 3. Petition for Writ of Habeas Corpus by a Person in State Custody packet. (§2254 in Federal Court and form 9-701 in State Court)
 - 4. State Torts Claims packet
 - 5. Divorce packet (with children and without children)
- D. Qualified Legal Materials Copying

FORMS:

Inmate Request for Legal Access

Request/Authorization for Qualified Legal Claim Copying

Staff Response to Inmate Request for Legal Assistance/Meeting

NEW MEXICO CORRECTIONS DEPARTMENT

Legal Texts and Resource Material

1. Lewis v. Casey
2. Shaw v. Murphy
3. Porter v. Nussle
4. Ferguson v. NMCD
5. Current New Mexico Statutes
6. Current New Mexico Rules
7. NMCD Policies
8. Facility Policies
9. Classification Policy
10. Law of Sentencing, Corrections, and Prisoners' Rights (in a Nutshell) 7th
11. United States Code Constitution (Articles and Amendments) Sections
12. United States Code Title 42 §§ 1981 - 1988 [Civil Rights] (Selected Sections)
13. United States Code Title 28 § 2254 [Habeas Corpus for Inmate in State Custody]
14. Federal District Court Rules - New Mexico District
15. Federal Rules of Criminal Procedure
16. Federal Rules of Civil Procedure
17. Federal District Court Forms (1983 and 2254 packets)
18. Post conviction Remedies (Yackle) *(or suitable alternative)*
19. Rights of Prisoners 4th (4 Volumes) *(or suitable alternative)*
20. Black's Law Dictionary *(or suitable alternative)*
21. Post-Conviction Relief Forms (State Tort, Habeas Corpus, and Appeal Packets)

NEW MEXICO CORRECTIONS DEPARTMENT

Court Form Packets

1. State Appeal Packet
2. Federal §1983 Forms packet
3. Petition for Writ of Habeas Corpus by a Person in State Custody packet
(This includes both State Habeas and Federal §2254 Habeas petitions only.)
4. State Tort Claims packet
5. Divorce packet (with children and without children)
6. Writ of Mandamus

NEW MEXICO CORRECTIONS DEPARTMENT

Qualified Legal Materials Copying

Any document that meets the definition of a Qualified Legal Claim, plus related motions, responses, discovery matters and letters to the court in connection with the qualified legal claims.

§2254 FEDERAL HABEAS CORPUS	ORIGINAL AND 2 COPIES FOR THE COURT (THE COURT WILL RETURN A FILE COPY TO THE INMATE FOR HIS RECORD.)
§1983 FEDERAL CIVIL RIGHTS	ORIGINAL AND 2 COPIES FOR THE COURT (THE COURT WILL RETURN A FILE COPY TO THE INMATE FOR HIS RECORD.)
NEW MEXICO HABEAS CORPUS	ORIGINAL AND 2 COPIES FOR THE COURT AND 1 COPY FOR EACH DEFENDANT (THE COURT WILL RETURN A FILE COPY TO THE INMATE FOR HIS RECORD.)
NEW MEXICO TORT CLAIM	ORIGINAL AND 2 COPIES FOR THE COURT AND 1 COPY FOR EACH DEFENDANT (THE COURT WILL RETURN A FILE COPY TO THE INMATE FOR HIS RECORD.)
NEW MEXICO COURT OF APPEALS	BRIEF IN CHIEF – ORIGINAL AND 6 COPIES. ALL OTHER PLEADINGS – ORIGINAL AND 3 COPIES
DIVORCE FORMS	ORIGINAL AND 3 COPIES
POWER OF ATTORNEY	ORIGINAL AND 1 COPY
LAST WILL AND TESTAMENT	ORIGINAL AND 1 COPY
WRIT OF MANDAMUS	ORIGINAL AND 3 COPIES