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THE FLORIDA LEGISLATURE  
**JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE**

September 10, 2021

Mr. Jason Holman  
Assistant General Counsel  
Department of Corrections  
501 S. Calhoun Street  
Tallahassee, Florida 32399-6548

**RE: Department of Corrections  
Proposed Rule Number 33-210.101**

Dear Mr. Holman:

The Committee has reviewed the Notice of Change published in the September 7, 2021, Florida Administrative Register, and has the following comments:

**33-210.101(4)(a)** The proposed amendment states, in part, that, "Inmates are permitted to receive. . . Up to and including 15 pages of written materials. . ." As indicated in the Committee's letter of July 28, 2021, under the current rule, inmates are allowed to receive "(a) Written correspondence (no limit as to number of pages)[, and] (b) Up to 15 pages of additional written materials" unless prior approval is obtained from the warden. Although the Notice of Change increases the number of pages allowed from what can be sent by a single first class stamp, how does the limitation on the number of pages promote the purpose and effect of the rule "[t]o increase the safety and security of inmates and staff. . . ."?"

The proposed amendment references both correspondence and "written materials pertain[ing] to an inmate's legal case, health, or other significant issues," and "correspondence concerning legal, medical, or other significant issues . . . ." The terms used in the two phrases should be consistent or the differences defined.

The proposed amendment states: "Requests to send correspondence of greater than 15 pages shall be made to the warden or designee prior to sending the material."

Is a request for an exception to the 15 page limitation to be submitted in a particular manner/format (e.g., Form DC6-236, Inmate Request, referenced in subparagraph (4)(a)) or will any written format be accepted?

Is there a timeframe for review and response to the request? If so, the timeframe should be set out in the rule. If not, consideration should be given for establishing one.

The requirement that requests “shall be made to the warden or designee” is somewhat confusing. Perhaps all requests should be made to the warden who, by internal delegation, can assign an individual to review and respond to the request.

What criteria are to be used in determining whether to grant the request?

Rule 33-210.101(1) states that “routine mail” does not include “legal mail as defined in Rule 33-210.102, F.A.C.” How do references to “correspondence concerning legal . . . issues” and “written materials pertain[ing] to an inmate’s legal case” differ from legal mail as defined in Rule 33-210.102, F.A.C.?

The term “other significant issues” appears to be vague and should be further clarified.

**33-210.101(4)(b)** The rule provides, in part, that “[t]he warden shall approve such requests when there is Department staff who can translate the correspondence or when it is otherwise possible to obtain translation services to translate the correspondence at a de minimus cost to the Department.”

Is the de minimus cost left to the discretion of each warden, or is there a de minimus cost that is acceptable to the Department for the entire corrections system?

**33-210.101(6)** The rule states, in part: “If the correspondence cannot be translated by a Department employee where an inmate is housed or by the Department contractor, the correspondence will be processed, and a copy will be sent to another institution or the central office for translation.”

The rule does not indicate that the translation of the correspondence is governed or otherwise limited by a “de minimus cost to the Department.” How does the language of this rule comport with the de minimus limitation of Rule 33-210.101(4)(b)?

This rule also states that, “[i]ncoming routine mail that is properly addressed and otherwise in compliance with applicable Department rules shall not be

held for processing for more than 72 hours after receipt by the Department or a Department contractor, excluding weekends and holidays.”

Does the 72 hour provision apply to correspondence requiring translation? If not, the timeframe should be clarified to apply to correspondence requiring translation.

The rule further states:

All original incoming routine mail that is received for electronic mail processing shall be retained for 90 days by the Department contractor from the date of receipt, after which it will be shredded. The sender of incoming routine mail that is to be or that is processed electronically may request that the original correspondence and contents be returned by sending a written request with a self-addressed stamped envelope to the Department contractor any time prior to the expiration of the 90-day retention period.

Is there a timeframe for the contractor to respond to a request that the original correspondence be returned?

The proposed amendment to the rule states: “Scanned routine mail does not constitute ‘purchased content’ pursuant to Rule 33-602.900(5)(s), F.A.C. and scans will not be available to an inmate upon an inmate’s release.”

If “purchased content” is available from the vendor upon an inmate’s release, why is other content previously approved by the Department for downloading to a tablet not similarly available, assuming it has also been retained by the vendor? In light of the digitization of all routine mail, it would appear that the two options/solutions set forth in the Department’s letter of August 20, 2021, that “an inmate can pay to make a paper copy of incoming mail; or, the sender of mail can request mail be returned to them once scanned, as long as pre-paid postage is received” ignore the most expedient method of making the correspondence available to the inmate – i.e., in the same manner approved for accessing “purchased content” from the vendor. Please explain how distinguishing the method of accessing routine mail from “purchased content” upon an inmate’s release promotes the purpose and effect of the rule, i.e., “[t]o increase the safety and security of inmates and staff”?

Mr. Jason Holman  
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Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth J. Plante". The signature is written in a cursive style with a large initial 'K'.

Kenneth J. Plante  
Coordinator

KJP:tf #184251