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**IDAPA 06
TITLE 01
Chapter 01**

IDAPA 06 - BOARD OF CORRECTION

06.01.01 - RULES OF THE BOARD OF CORRECTION

000. LEGAL AUTHORITY.

01. Section 9-347, Idaho Code. Pursuant to Section 9-347, Idaho Code the Board shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the department, the custodian and the physical location of such documents. (11-5-99)

02. Section 20-209, Idaho Code. Pursuant to Section 20-209, Idaho Code the Board shall have control, direction and management of all correctional facilities and property used in connection with correctional facilities. (11-5-99)

03. Section 20-212, Idaho Code. Pursuant to Section 20-212, Idaho Code the Board shall make all rules necessary to carry out the provisions of Title 20, Chapter 2, Idaho Code, not inconsistent with express statutes or the state constitution. (11-5-99)

04. Section 20-217A, Idaho Code. Pursuant to Section 20-217A, Idaho Code the director shall assume all the authority, powers, functions and duties as may be delegated to him by the Board. (11-5-99)

05. Section 20-244, Idaho Code. Pursuant to Section 20-244, Idaho Code the Board shall make and adopt such rules as they may deem necessary for the government and discipline of the correctional facilities. (11-5-99)

06. Section 18-2510, Idaho Code. Pursuant to Section 18-2510, Idaho Code it is a crime to convey articles, letters, or things into and out of Department facilities contrary to Department procedures, directives and Section 510. (11-5-99)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 06.01.01, "Rules of the Board of Correction," IDAPA 06, Title 01, Chapter 01. (11-5-99)

02. Scope. These rules are established to govern the duties and responsibilities delegated to the Board by law which affect a right of the public or a process to which the public has access. (11-5-99)

002. WRITTEN INTERPRETATIONS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code except as specifically noted therein so there are no written interpretations of these rules. (11-5-99)

003. ADMINISTRATIVE APPEALS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code except as specifically noted therein so there is no provision for administrative appeal. (11-5-99)

004. DEFINITIONS.

01. Administrator. The exempt employee in authority over a division of the Department. (11-5-99)

02. Archival Research. Research requiring access to stored historical data, files, documentation, video or audio tapes, electronically sorted data, or written material. (11-5-99)

03. Attorney Of Record. An attorney appointed by a court or retained by an inmate in a legal action. (11-5-99)

- 04. Board.** The state Board of Correction. (11-5-99)
- 05. Case Management File.** A collection of legal documents, reports, submissions, statements, and support materials used in making decisions about an inmate, parolee, or probationer regarding classification, treatment, programming, management, parole, or clemency decisions. (11-5-99)
- 06. Confidential Mail.** Is mail to or from the president, the governor, the Attorney General or any Assistant or Deputy Attorney General, the Idaho legislature or Congress (except for bulk mailings), the courts, attorneys (except for bulk mailings), the Board, the director, and Department administrators and facility heads. (11-5-99)
- 07. Contact Visiting.** Visiting with an inmate where there are no physical barriers between the visitor and the inmate and the inmate and visitor may be allowed to touch. (11-5-99)
- 08. Contraband.** Any thing of any kind which is prohibited by Board, Department, or facility rules, procedures, or directives. Contraband also includes any thing of any kind which a facility head has not approved for possession by an inmate or which a facility head has not approved to bring in to a facility or on to department property. (11-5-99)
- 09. Contractor.** A person who has entered into a contract with the Board or Department, or a contract with the state of Idaho administered by the Board or Department to provide any service. (11-5-99)
- 10. County Jail.** A detention or holding facility operated by the sheriff of a county. (11-5-99)
- 11. Department.** The state Department of Correction. (11-5-99)
- 12. Department Property.** Real property owned or leased and operated or managed by the Board or Department. (11-5-99)
- 13. Directive.** A sequence of steps within a particular division to implement a procedure. (11-5-99)
- 14. Director.** The director of the Department of Correction. (11-5-99)
- 15. Division.** An operating unit of the Department. The Department divisions are: (11-5-99)
- a. Prisons; (11-5-99)
 - b. Management Services; (11-5-99)
 - c. Field and Community Services; (11-5-99)
 - d. Correctional Industries; and (11-5-99)
 - e. Institutional Services. (11-5-99)
- 16. Execution.** The carrying out of a sentence of death. (11-5-99)
- 17. Facility.** A building or residence, including the property and land where the building or residence is located, owned or leased and operated or managed by the Board or Department. (11-5-99)
- 18. Facility Head.** The person with primary responsibility to oversee, manage or operate a Department facility. (11-5-99)
- 19. Field Memoranda.** Detailed guidelines to implement directives within a facility or a service unit of a division. (11-5-99)

20. **General Mail.** All mail other than confidential mail. (11-5-99)
21. **Health Authority.** The Department employee with primary responsibility to oversee or manage the Department medical services. (11-5-99)
22. **Immediate Family.** The immediate family of an inmate is: (11-5-99)
- a. The mother or father of the inmate, including step parent; (11-5-99)
- b. The brother or sister of the whole or half (1/2) blood or by adoption or the stepbrother or stepsister of the inmate; (11-5-99)
- c. The wife or husband of the inmate, as proved by marriage license or other operation of law; (11-5-99)
- d. The natural child, adopted child or stepchild of the inmate; (11-5-99)
- e. The grandparents of blood relation to the inmate; or (11-5-99)
- f. The grandchildren of blood relation to the inmate. (11-5-99)
23. **Intern.** A Student of a recognized college or university who may be involved in a course of study or research project conducted within a facility or service area under the authority of the Board. (11-5-99)
24. **Inmate.** An individual in the physical custody of the Board. (11-5-99)
25. **Inmate Visitor.** A member of the public who is approved to visit with an inmate at a Department facility. (11-5-99)
26. **Legal Assistant.** A person who has been granted permission by the facility head or designee to assist an inmate in a specific legal matter and who is a law student or an employee of an attorney of record, or an employee of a local, state or federal court, or an employee of a legal aid service. (11-5-99)
27. **Literature.** Notices, placards, banners, advertisements, and other writings not generated by the Department for Department distribution. (11-5-99)
28. **Minor.** A individual less than eighteen (18) years old. (11-5-99)
29. **Non-Contact Visiting.** Visiting with an inmate where there are physical barriers between the visitor and the inmate and the inmate and visitor are not allowed to touch. Verbal communication is generally accomplished through telephones, speakers or openings in the physical barrier designed to allow sound to pass. (11-5-99)
30. **Obscene.** Material is considered obscene if it: (11-5-99)
- a. Portrays physical contact of a person with the sexual organs of another by genital-genital, oral-genital, digital-anal, digital-genital, anal-genital contact; (11-5-99)
- b. Portrays the insertion of foreign objects into the anus or vagina; (11-5-99)
- c. Portrays the discharge of bodily fluids; (11-5-99)
- d. Portrays bestiality; (11-5-99)
- e. Portrays sexual contact with a minor under age eighteen (18) or a person who appears to be under the age of eighteen (18); (11-5-99)

- f. Portrays violent activity in a sexual context; or (11-5-99)
- g. Portrays an act where one (1) of the participants appears to be non-consenting to the act. (11-5-99)
- 31. Offender.** A person under the legal care, custody, supervision or authority of the Board including a person within or without the state pursuant to agreement with another state or a contractor. (11-5-99)
- 32. Parole Commission.** The Idaho Commission of Pardons and Paroles. (11-5-99)
- 33. Parolee.** An offender who is released from a facility to a period of supervision upon grant of parole by a paroling authority. (11-5-99)
- 34. Penological Interests.** The security, programmatic, and rehabilitative interests of the Board and the Department. (11-5-99)
- 35. Person.** An individual, corporation, governmental entity or organization, however organized or constituted. (11-5-99)
- 36. Photo Identification.** A state issued driver's license, a state issued identification card displaying a photograph, a military issued identification card displaying a photograph or, a current valid passport. (11-5-99)
- 37. Post Order.** A detailed set of guidelines and procedures for each post or area of employee assignment which governs and explains the duties of the employee assigned to the post or area of responsibility. (11-5-99)
- 38. Probationer.** An offender who is placed on a period of supervision on probation by a court of competent jurisdiction. (11-5-99)
- 39. Procedure.** A sequence of steps or actions to be followed to implement and support a rule or policy. (11-5-99)
- 40. Public.** A person in the general public. For purposes of these rules public does not include offenders, contractors, vendors, volunteers, interns, or the employees of the Board, Department or, Parole Commission. (11-5-99)
- 41. Public Information Officer.** An employee of the Department designated by the director to be the primary contact person from whom the public and media may request information. (11-5-99)
- 42. Research Activities.** Activities which systematically investigate a phenomenon or series of phenomena. (11-5-99)
- 43. Research On Human Subjects.** Research requiring access to, and participation of, employees of the Department or offenders. (11-5-99)
- 44. Tobacco Products.** Cigarettes, whether packaged or hand rolled, cigars, snuff, chew, or any other variation of a product containing tobacco. (11-5-99)
- 45. Vendor.** A person who supplies goods or services to the Board or any operation or facility under the authority of the Board. (11-5-99)
- 46. Visiting Staff.** Employees of the Department or the Parole Commission conducting business in the Department central office building on a regular or irregular basis. (11-5-99)
- 47. Visitor.** A member of the public as defined herein who is approved to visit a department facility. (11-5-99)
- 48. Volunteer.** A person who has volunteered or donated time or services to the Board or a Department

operation or facility. (11-5-99)

49. Work Site. Any place where inmates may be found when assigned to a work project. (11-5-99)

005. ABBREVIATIONS.

006. BOARD MEETINGS.

01. Meetings. The Board shall meet at such times and places as they may direct. Meetings shall occur at least quarterly, and may occur more frequently. All business of the Board shall be conducted in compliance with the open meeting law as provided by Sections 67-2340 through 67-2347, Idaho Code. (11-5-99)

02. Yearly Meeting Schedule. The Board may publish a schedule of meetings once per year, which schedule shall be posted in the Department central office. (11-5-99)

03. Agenda. An agenda for each regularly scheduled meeting shall be posted in the Department central office or such other place as the Board may meet at least forty-eight (48) hours prior to the regularly scheduled meeting, except as noted in Subsection 006.06. (11-5-99)

04. Minutes Of Meetings. Summary minutes of each meeting shall be made and shall be available to the public at the Department central office, office of the director. Nothing herein shall be construed to require or allow the disclosure of information concerning the matters discussed in executive session nor any information exempt from disclosure pursuant to Sections 9-335 and 9-340, Idaho Code, or any other exemption provided by law. (11-5-99)

05. Director To Prepare Reports. The Board may order the director to prepare and present such reports and information concerning the operation of the Department as the Board may from time to time require. (11-5-99)

06. Special Meetings. The director or any member of the Board may call for a special meeting of the Board when such meeting becomes necessary to deliberate or decide about some matter requiring attention prior to or in addition to the next regularly scheduled meeting of the Board. An agenda shall be posted at the place of the meeting, or in the Department central office twenty-four (24) hours before such meeting unless the nature of an emergency precludes such notice. (11-5-99)

007. -- 103. (RESERVED).

104. TOBACCO FREE ENVIRONMENT.

The Department and all of its property, facilities, and vehicles shall be maintained tobacco free. No person shall possess or use tobacco products on or in vehicles or properties owned, leased, rented and operated or managed by the Department. No offender, employee, contractor, volunteer, vendor, or intern shall possess or use tobacco products in or on any Department work site. (11-5-99)

01. Applicability. Section 104 is applicable to all persons, regardless of status as public or non-public as defined in Subsection 004.40. (11-5-99)

02. Exception. Tobacco products may be kept in a securely locked vehicle in a Department parking lot. (11-5-99)

105. VICTIM NOTIFICATIONS.

Upon receipt of a victim request for notification made pursuant to Section 19-5306(2), Idaho Code, the Department shall make reasonable efforts to notify the victim when the inmate who is the subject of the request escapes or is released from the custody of the Board other than by the Parole Commission or a court order. (11-5-99)

106. SERVICE OF PROCESS ON DEPARTMENT EMPLOYEES.

The Board authorizes and directs that all service of summons and complaint against the Board, the Department, or any employee of the Department for a cause of action arising out of or related to the scope and course of the actions, duties, or employment of the Board, the Department, or any employee of the Department shall be made upon the

deputy attorneys general assigned to the Department in the manner and form required by state and federal rules of procedure. (11-5-99)

107. (RESERVED).

108. IDAHO PUBLIC RECORDS ACT.

01. Custodian of Records. The following Department employees are designated as official custodians of department records for purposes of this section: (11-5-99)

- a. The public information officer; (11-5-99)
- b. The central records manager; (11-5-99)
- c. The administrators of the divisions; (11-5-99)
- d. The facility heads; and (11-5-99)
- e. The Department records clerks. (11-5-99)

02. Records Exempt From Disclosure. The Board has determined that the disclosure of certain records always interferes with the secure and orderly operation of the Department and the public interest in confidentiality clearly outweighs the public interest in disclosure. Those records include emergency plans, blueprints, facility security procedures, facility post orders, investigation records of inmate requests for protective custody, and investigative records of inmate criminal activity. (11-5-99)

a. Pre-sentence investigation reports, addenda and the information contained in or attached to the reports shall not be disclosed to any person except in compliance with Idaho Rule of Criminal Procedure 32. (11-5-99)

b. Civil commitment records differ in confidentiality from other offender records in that the civilly committed individual may not be convicted of a crime or may be held in a Department facility for reasons other than criminal conviction. Requests for information from the file of a civilly committed individual may be referred to department legal counsel to determine applicability of federal and state statutes pertaining to individual privacy and the public's right to know. (11-5-99)

c. Other records may be designated as exempt from disclosure as provided by law. (11-5-99)

109. LITERATURE DISTRIBUTION.

No person shall post any literature or notice on or in any Department property or facility without approval of the director, or designee. (11-5-99)

110. MEDIA AND PUBLIC RELATIONS.

01. Intent Of The Board. It is the intent of the Board that the Department keep the public well informed of its activities and maintain a consistently high community rapport through public presentations and special programs. (11-5-99)

02. Interviews. Requests for an interview with an inmate will be referred to the public information officer. Media representatives requesting an interview with an inmate will be informed of Department Policy and Procedure 110 - Media & Public Relations. No face-to-face or on-camera interviews with inmates will be permitted in Department facilities. (11-5-99)

a. The director may grant exceptions to the no face-to face or on-camera interview rule on a case by case basis. No exceptions may be granted to inmates sentenced to death. Access to inmates under sentence of death is governed by Section 19-2705, Idaho Code. (11-5-99)

b. The director, administrator of the division or head of the facility where the inmate is housed may deny the interview request. (11-5-99)

c. The inmate will be informed of the request for interview and the nature of the interviewer's interest. The inmate may accept, decline or modify the request for interview. Requests for an interview an inmate will be accommodated by a collect telephone call from the inmate to the media representative. An inmate accepting a request for interview will be provided with the interviewer's telephone number and any specific time frame requested for the interview. (11-5-99)

d. Media coverage of program activities may include brief comment by inmate participants, which are not considered inmate interviews subject to Subsection 110.01. (11-5-99)

111. -- 115. (RESERVED).

116. CUSTODY OF EVIDENCE.

01. Evidence Retained. Items of evidence retained by the Department for use in any proceeding concerning an offender shall be maintained in a safe and secure manner until completion of the proceedings, including appeal. A member of the public claiming an interest in an item of evidence may file a written request with the Department for its return. (11-5-99)

02. Drugs Disposed Of. Items of evidence in the form of narcotics or other usable drugs shall be given to a law enforcement agency for disposal. (11-5-99)

03. Contraband Not Returned. Items of evidence which are now contraband or were contraband at the time they came into the possession of the Department shall not be given to any claimant but may be disposed of according to law. (11-5-99)

117. CENTRAL OFFICE VISITORS.

The Board and Department business should be conducted in a safe and secure environment. Identification of visitors in the Department central office building is necessary to ensure staff safety and building security. All visitors and visiting staff having business at the Department central office building shall identify themselves to the receptionist upon entering the building. (11-5-99)

01. Identification. Identification of frequent visitors and visiting employees may be by visual recognition. Other identification shall be through photo identification. (11-5-99)

02. Visitor Sign-in And Sign-out. All visitors and visiting staff will sign-in the visitor's log, located at the receptionist's desk. All visitors and visiting staff will sign-out when departing. (11-5-99)

118. -- 122. (RESERVED).

123. PUBLIC VISITS AND TOURS OF FACILITIES.

The Department may allow tours of facilities and property according to procedures approved by the director. Tours will generally take place during normal business hours or at times which ensure the safety and convenience of the facility or Department property. (11-5-99)

01. Persons Subject To Facility Rules And Regulations. All persons touring a facility or Department property are subject to the rules, policies, procedures, directives and field memoranda regarding visitation, which are to be explained by the guides prior to the beginning of the tour. (11-5-99)

a. All persons touring a facility or Department property may be subject to search. Discovery of any contraband, as defined in Subsection 004.07, shall be grounds for immediate termination of the tour and referral to local law enforcement for possible prosecution of a criminal offense. (11-5-99)

b. All persons touring a facility must be at least eighteen (18) years old or if under eighteen (18), must be accompanied by a parent or guardian or have written permission from the parent or guardian, unless approved by

the director or designee. (11-5-99)

02. Attendance At Events. Under certain circumstances and with an invitation from a Department employee, an individual may attend athletic games and various other events held at a facility. Attendance shall not interfere with penological interests. (11-5-99)

124. -- 133. (RESERVED).

134. RESEARCH REQUESTS.

The Board may allow access to records, employees and offenders in the custody of the Board for purposes of appropriate and ethical research relevant to the Board's penological interests. (11-5-99)

01. Archival Research. Archival research which is based solely on data collection from an existing data base will be conducted according to Idaho public records laws. (11-5-99)

02. Research Conducted On Offenders. Research conducted on offenders may be conducted by professional researchers, including private consultants and Department employees, graduate students supervised by graduate level professionals, or undergraduate students supervised by Department staff undertaking research projects implemented and designed by Department administrators. (11-5-99)

03. Written Proposals Required. Written proposals will be required for all requests to conduct research with offenders. The proposal will be initially submitted to the facility head, or designee, of the site where research is to take place. Written proposals must be submitted ninety (90) days prior to the proposed research start date. (11-5-99)

a. The written proposal will include a statement of the significance of the study, a research hypothesis or problem statement, an estimate of the time parameter for the project's completion, and a clear statement of the research methodology, a definition of the population, the sample selection, the design, ethical procedures, a discussion on dissemination of written research reports and legal parameters. (11-5-99)

b. Written proposals will be reviewed by the facility head, or designee, of the site where the research is to take place. Proposals will be reviewed for compatibility with Department goals, programs and needs for research. Proposals may be rejected or returned for resubmission because there is a lack of compatibility with stated Board or Department goals, programs and needs for research, the research is inappropriate for conducting under the auspices of the Board or Department, or there is a failure to meet the required proposal criteria. (11-5-99)

c. Department employees conducting research at the request of the Department and professional researchers retained by the Department may be exempt from the requirement to submit a written research proposal. (11-5-99)

d. Acceptable research proposals will be forwarded to the division administrator of the division where the research is to take place for final approval. Certain projects involving offenders should be approved with minimal review. Those projects include: (11-5-99)

i. Research conducted in a manner that does not link information gathered to the identity of the participants; (11-5-99)

ii. Research on regular and special instructional techniques; (11-5-99)

iii. Research involving the administration of standard tests, when information from the tests cannot be linked to the identities of the subjects; and (11-5-99)

iv. Research involving surveys or interview procedures where the responses cannot be identified back to the respondents. (11-5-99)

04. Rights Of Offenders. The rights and welfare of any offender research subjects will be safeguarded at all times. (11-5-99)

05. Use Of Offenders In Medical Experimentation Prohibited. The use or participation of offenders in medical, pharmaceutical or cosmetic experiments is expressly prohibited. (11-5-99)

06. Written Report Required. The principal researchers shall be required to provide the Department with a copy of the completed research results. (11-5-99)

07. Termination Of Project. The director, any division administrator, facility head, or designee may terminate approved research at any time for noncompliance with any rule, Policy or Procedure, directive, or condition previously agree upon, or for cause generated by an emergency situation or at the discretion of the director. (11-5-99)

135. EXECUTIONS.

01. Personnel Assigned to Execution. Idaho Maximum Security Institution personnel will carry out the execution warrant. The facility head of the Idaho Maximum Security Institution shall be the official executioner. (11-5-99)

02. Method of Execution. Execution of the sentence of death shall be by lethal injection. If the director determines that a competent lethal injection team cannot be assembled, execution shall take place by firing squad. (11-5-99)

03. Media Coordination. Department personnel will coordinate media activity and provide logistics and communications support. A media center shall be established. The pre-execution briefing will be delivered in the media center. Media witnesses will be chosen pursuant to Department procedure. The selection of media witnesses will occur in the media center. The post-execution briefing will occur in the media center. (11-5-99)

04. Public Information Officer To Handle Media Requests. The director will designate a public information officer to deal with execution-related media requests and releases of information. (11-5-99)

05. Parking And Demonstration Areas Provided. Areas for public and media parking will be provided and maintained in a secure manner. Areas for public gathering and demonstration of support or opposition to the death penalty will be provided and maintained in a secure manner. (11-5-99)

06. Witnesses To The Execution. An area will be provided for the gathering of official witnesses and media witnesses immediately prior to the scheduled execution. A total of twenty-one (21) occupants is the limit in the execution viewing area at one (1) time. Persons allowed in the execution viewing area during the execution procedures are:

- a. The injection team as identified by the facility head of the Idaho Maximum Security Institution; (11-5-99)
- b. The director, the administrator of the division of prisons, and the facility head of the Idaho Maximum Security Institution; (11-5-99)
- c. The coroner; (11-5-99)
- d. The sheriff from the county of conviction; (11-5-99)
- e. The prosecuting attorney from the county of conviction; (11-5-99)
- f. A spiritual advisor of the inmate's choosing; (11-5-99)
- g. The sentencing judge; (11-5-99)
- h. A representative from the Governor's office; (11-5-99)

- i. The Attorney General or his representative; (11-5-99)
- j. A representative from The Board; (11-5-99)
- k. The news media pursuant to Subsection 135.03. A maximum of seven (7) news media may attend as witnesses. (11-5-99)

136. (RESERVED).

137. COUNTY JAIL BED SPACE ASSESSMENT.

The department shall biannually assess and review the county jails to determine bed space available for state sentenced prisoners. (11-5-99)

138. -- 301. (RESERVED).

302. HOUSING INMATES IN NON-DEPARTMENT FACILITIES.

01. Payment Of Daily Fee. The Department shall pay an Idaho county housing a state sentenced inmate a daily fee as established by Section 20-237A, Idaho Code. The fee shall accrue and become payable beginning on the day after the county sheriff provides the notification required by Subsection 302.02. (11-5-99)

- a. The fee includes the ordinary daily expenses of housing an inmate, including room and board. (11-5-99)
- b. The Department will pay for all ordinary medical and dental expenses of state inmates, subject to the provisions of Subsection 302.05. (11-5-99)
- c. The Department shall not make payment for inmates held on pending charges, inmate workers, trustees, and inmates held under court-ordered jurisdiction. (11-5-99)

02. Notification Of New Commitment. Upon receiving into his custody an inmate sentenced to imprisonment and committed to the custody of the Board, the sheriff shall notify the Department. The notification shall be by certified mail or facsimile transmission of a copy of a judgment of conviction. (11-5-99)

03. Accepting The Inmate For Transport To A Department Facility. (11-5-99)

a. A newly sentenced and committed inmate shall not be accepted for transport from a county jail to a Department facility unless the notification required by Subsection 302.02 has been made or unless the director or his designee authorizes the transport in writing; and (11-5-99)

b. If a sheriff moved a state sentenced inmate to the jail of another county, the sheriff immediately notified the Department. (11-5-99)

c. Prior to the date of the transport of the inmate from a county jail to a Department facility the sheriff shall have sent the following information about the inmate to the Department central records bureau: (11-5-99)

- i. Judgment and commitment orders from the court; (11-5-99)
- ii. Pre-sentence investigation report, if any; (11-5-99)
- iii. Jail disciplinary and incident reports, if any; and (11-5-99)
- iv. Medical and psychological files. (11-5-99)

04. Conditions of Confinement. The policies and guidelines of the non-department facility shall govern the conditions of the inmate's confinement while at the non-department facility, except as may be modified by this section or agreement between the Board and the non-department facility. (11-5-99)

05. Medical, Dental, Psychological And Psychiatric Care. The Department health authority shall have the responsibility for approving medical, dental, psychological and psychiatric health care for inmates committed to the custody of the Board and housed in non-department facilities. Delivery of routine medical, dental, psychological and psychiatric services shall be the responsibility of the facility where the inmate is held. (11-5-99)

a. All medical services for an offender housed in a non-department facility delivered outside the non-department facility, including consultant appointments, scheduled hospitalizations and dental care, shall be approved by the health authority, or designee prior to occurring, except as noted in this Section. (11-5-99)

b. The health authority, or designee, shall be notified the next working day of any emergency services. (11-5-99)

c. Any extraordinary treatment shall be approved by the health authority prior to treatment. Emergency care which requires possible transport of the inmate out of state requires prior approval by the health authority, or designee. (11-5-99)

d. Failure to make the notifications required by this Section to the health authority or designee will result in the non-department facility being held responsible for any charges or expenses incurred. (11-5-99)

e. Transportation of the inmate to and from appointments shall be the responsibility of the non-department facility. A state sentenced inmate shall not be left without security escort, except as may be approved by the director or designee. (11-5-99)

06. Transporting Inmates. The Department will transport newly committed inmates from the county jail to a Department destination determined by the Department. The sheriff shall transport inmates from a Department facility to the county jail when a court appearance is ordered. Other transport arrangements may be made between the Department and the sheriff or non-department facility head. (11-5-99)

07. Inmate Work Assignments. Inmates committed to the custody of the Board who are being held in county jails or other non-department facility may be assigned to work assignments or work projects subject to this Section. No inmate shall be assigned to a work assignment or project outside of the secure perimeter of the jail or non-department facility. An inmate shall not be outside of the secure perimeter of the jail or non-department facility when not directly supervised or escorted by security personnel, except upon approval of the director or designee. (11-5-99)

303. -- 310. (RESERVED).

311. INMATE MARRIAGES.

Section 32-201, Idaho Code, requires that all marriages in Idaho be accomplished with a license and by solemnization. A person desiring to marry an inmate shall make application for marriage to the facility head of the facility where the inmate is held in custody. The facility head shall have discretion to allow a solemnization ceremony to be conducted within the facility between a member of the public and an inmate of the opposite gender if in the opinion of the facility head doing so will not be contrary to penological interests. (11-5-99)

312. DECEASED INMATES.

01. Notice To Coroner And Family. Upon verification of the death of an inmate, the facility head shall notify the county coroner where the facility is located and the inmate's family as listed in the case management file. (11-5-99)

02. Autopsy And Inquest. The coroner shall determine if an autopsy should be performed in accordance with state law and the interests of the public. The Department shall seek an autopsy in all cases of violent or sudden and unexpected death. The coroner shall hold an inquest as required by Section 31-2802, Idaho Code, unless the autopsy was waived. (11-5-99)

03. Delivery Of The Body To A Funeral Home. As soon as possible after the death of the inmate the

facility head shall arrange for the body to be delivered to coroner or a funeral home. The deceased inmate's family, if any, shall be told where the body may be claimed and if the family claims the body, the family shall be responsible for all costs of interment. (11-5-99)

04. Body Not Claimed. In cases where the coroner has performed an autopsy and the body has been released but not claimed, or where the body has not been claimed within seventy-two (72) hours after death and a reasonable and good faith effort was made to notify the deceased inmate's family, the facility head shall arrange with a funeral home for interment. If there is not sufficient property in the estate of the deceased inmate to pay the necessary expenses of interment, the expenses are a legal charge against the county where the facility is located pursuant to Section 31-2802, Idaho Code. The director of the Department may, in his sole discretion, accept financial responsibility for the costs of interment on behalf of the Department. (11-5-99)

05. Disposition Of Deceased Inmate Property. The deceased inmate's personal property and assets held by the department shall be applied toward the costs of interment first. Any monies or property claimed by the deceased inmate's legal representative shall not be released without a written agreement signed by the legal representative to pay the costs of interment. (11-5-99)

a. The remainder of any money or property after deduction of the costs of interment shall be released to the deceased inmate's legal representative. The legal representative shall present written documentation of the representative's powers and authority. (11-5-99)

b. If no person claims the money or property of the deceased inmate within thirty (30) days from the date of death, the facility head where the deceased inmate was housed at the time of death shall deliver all money or property to the local public administrator for probate pursuant to Title 14, Chapter 1, Idaho Code. (11-5-99)

06. Inmates Housed In Non-Department Facilities. If an inmate in the custody of the Board dies while housed in a non-Department facility, the Department shall pay for costs of disposition of the body, unless other arrangements are stated in an agreement or contract with the non-Department facility or unless the family shall claim the body of the deceased inmate. (11-5-99)

313. -- 400. (RESERVED).

401. MEDICAL CARE.

01. Notification Of Family In Emergency. In the event of a serious injury to an inmate or the hospitalization in an acute care setting of an inmate the facility head of the facility where the inmate was housed shall make reasonable efforts to notify the inmate's family, unless doing so would be contrary to penological interests. (11-5-99)

02. Contracts With Hospitals. The Department may enter into contracts with hospitals in the community where a facility is located to provide for the secure hospital care of inmates in the custody of the Board. (11-5-99)

03. Children Born To Inmates. The Board or the Department shall not be financially or otherwise responsible for the medical or other care of a child born to an offender in the custody of the Board. (11-5-99)

04. Organ Transplant Donations By Inmates. The director or his designee may approve organ donations by inmates only if the recipient is a member of the inmate's immediate family. Any such organ donation by any inmate to an immediate family member shall meet the following criteria: (11-5-99)

a. The Department, or its medical provider if privatized, shall incur no financial liability as a result of any proposed organ donation. All costs related to the proposed organ donation and transplant must be paid by the recipient; (11-5-99)

b. The proposed transplant procedure must fall within acceptable community standards of medical care and established medical practices; (11-5-99)

c. Both the donor and the recipient shall sign a hold harmless and indemnification agreement to the benefit of the Board and the Department; and (11-5-99)

d. The Board expressly prohibits organ donation from the body of an executed inmate. (11-5-99)

402. CORRESPONDENCE WITH INMATES.

01. Incoming Mail. Incoming mail shall be opened and inspected to make sure that it is not contrary to penological interests or is not obscene. Mail may be withheld subject to the provisions of Subsection 402.06. (11-5-99)

a. Books, magazines and newspapers may only be received directly from a legitimate publisher or other legitimate business source. Legitimacy of the source shall be in the sole discretion of the facility head or designee. (11-5-99)

b. Incoming mail with stickers, stamps (other than cancelled postage) or other articles affixed that can be used to conceal contraband will be refused and returned to the sender. (11-5-99)

02. General Mail. All incoming general mail shall be opened, inspected and may be read. Any cash, money order, or cashier's check enclosed will be credited to the inmate's trust account, except that money or other forms of exchange hidden or concealed in the correspondence shall be considered contraband and confiscated. Unapproved items of value not otherwise contraband must be returned to the sender at the inmate's expense within forty-five (45) days or they will be considered contraband and confiscated. (11-5-99)

03. Confidential Mail. To be recognized and treated as confidential, mail from a confidential source shall be clearly marked with the name, title and address of the sender. Mail which does not meet the requirements of this section shall be treated as general mail. (11-5-99)

a. Confidential mail should be opened in the presence of the inmate. (11-5-99)

b. Confidential mail should not be read, except that confidential mail be read by the facility head, or designee, if there is a reasonable suspicion that the content of the confidential mail violates Section 402, contains contraband or otherwise compromises penological interests. (11-5-99)

c. Correspondence between an attorney and an inmate client will be treated as confidential and not read if it meets the following criteria: (11-5-99)

i. The envelope containing the correspondence shall be clearly marked on its face with the words "Confidential Legal Mail"; (11-5-99)

ii. The correspondence shall be clearly marked on its face with the words "Attorney-Client Confidential Communication"; and (11-5-99)

iii. The inmate recipient shall not disclose the correspondence to any third person and shall store the correspondence in the inmate's allowed legal property or in a secure area provided by the facility for the storage of excess legal material. Failure to comply with this section shall waive any privilege or confidentiality in the correspondence. (11-5-99)

d. Any confidential sender who includes contraband in an otherwise confidential correspondence or who shall assist or aid an offender in attempting to, or succeeding in, circumventing or violating any Board or Department rule, policy, procedure, directive, field memorandum, or other lawful guideline or order may, at the discretion of the administrator of the division governing the facility where the inmate was housed at the time the mail was received, have all future correspondence treated as general mail. (11-5-99)

04. Prohibited Mail. Mail, including a publication, which poses a threat to the penological interests of the Board or Department may be withheld from the inmates. Contraband will always be withheld without regard to this section. The Board has determined that some types of mail always pose a threat to penological interests. The

following types of materials are prohibited: (11-5-99)

- a. That which describes how to obtain, build or manufacture drugs, intoxicants, weapons or explosives; (11-5-99)
- b. That which concerns, invites, advocates, aids or abets escapes, riots, insurrections, threats of physical harm to another person, threats of criminal activity, or plans to send contraband into the facility; (11-5-99)
- c. That which is obscene; (11-5-99)
- d. That which is in code; and (11-5-99)
- e. Other materials, which in the opinion of the facility head, present a threat to penological interests. (11-5-99)

05. List Of Prohibited Publications. The Department may issue a list of publications which have been found to consistently violate the provisions of Section 402. These publications will be considered contraband and withheld without regard to and without further notice. The list shall be reviewed at least annually. A particular publication may be reviewed at any time upon a showing that there has been a change in content which removes the reason for the need to withhold the publication. (11-5-99)

06. Withholding Of Prohibited Material. Whenever incoming mail may contain prohibited material as defined herein the facility head shall review the material to determine if it is prohibited or should otherwise be withheld. If it is not to be withheld, it shall be delivered to the inmate. If the facility head determines that the mail should be withheld, the sender shall be given notice that the material was withheld. The sender shall be given notice that the sender may contest the withholding by contacting the facility head, in writing, within fourteen (14) days of the date the notice is sent to the sender. (11-5-99)

403. INMATE RELIGIOUS PRACTICES. Inmates should have the opportunity to practice the tenets of their respective religious faiths, including access to religious publications, to representatives of their faiths, and to religious counseling, so long as those religious practices do not conflict with penological interests. The Department provides access to religious practices through volunteers. No person shall serve as a religious volunteer who is also on an inmate's visiting list. The Department may develop guidelines and procedures for the conducting of religious activities. (11-5-99)

404. (RESERVED).

405. ATTORNEY VISITS AND COURT PROCEEDINGS.

01. Attorney Visits With Inmates. An inmate's attorney of record or approved legal assistant may visit with the inmate client consistent with Section 405. Attorneys and their agents shall comply with Section 604 and all facility regulations and directives governing visiting. The facility head or designee may prohibit a visit if there is reason to believe the visit would present a threat to penological interests or if the attorney or approved legal assistant fails to act in an ethical manner. The facility head shall determine whether the visits are to be contact or non-contact visits, except as set forth in Subsection 405.03. (11-5-99)

02. Visiting Hours. Visiting hours shall be designated and posted by the facility head. Visiting shall normally be allowed Monday through Friday, from 8 a.m. through 4 p.m., subject to penological interests. Special visiting hours may be approved by the facility head or designee. Visits must be scheduled twenty-four (24) hours in advance. (11-5-99)

03. Visits With Death Sentenced Inmates. Visits between death sentenced inmates and attorneys shall be made in substantial compliance with Sections 19-2705 and 19-2706, Idaho Code. Attorneys and their agents shall comply with Section 604 and all facility regulations and directives governing visiting. (11-5-99)

04. Visits With Groups Of Inmates. Visits with groups of inmates shall not be permitted unless verification of class certification or co-parties has been determined in advance through the Office of the Attorney

General. Staff shall directly supervise group visits between groups of inmates and attorneys or approved legal assistants. (11-5-99)

05. Court Proceedings Within A Facility. The Department may make a conference or court room within a facility available to a state or federal court for the purpose of holding a hearing or trial upon a claim involving an inmate or group of inmates when doing so will not be contrary to penological interests. The facility head, in his sole discretion, may allow members of the public who are not witnesses to the proceeding in to the facility to observe the proceeding when in the opinion of the facility head doing so will not be contrary to penological interests. (11-5-99)

406. -- 409. (RESERVED).

410. INMATE FUNDS RECEIPT AND MAINTENANCE.

01. Account Established In Inmate Name. The Department shall establish an account in each inmate's name at the time of admission to a facility. All monies in the inmate's possession at admission, all monies earned from institutional employment and all monies sent to the inmate from outside sources, other than money which is contraband, shall be placed in this account. The Department shall develop guidelines for the withdrawal of funds by the inmate or to satisfy the inmate's financial obligations. (11-5-99)

02. Employers Of Work Center Inmates. Any person employing an inmate housed in a community work center shall send the inmate's pay directly to the Department for deposit in the inmate's account. (11-5-99)

411. -- 502. (RESERVED).

503. TELEPHONES.

Inmates are not allowed to use facility telephones except upon written permission of the facility head or designee. All regular inmate telephone calls shall be made through collect-call only telephones, if provided in the facility. All telephone calls in or out of a facility are subject to being monitored. The facility staff shall make every reasonable effort to identify and not monitor telephone calls between an inmate and the inmate's attorney. (11-5-99)

504. -- 509. (RESERVED).

510. SEARCHES OF PERSONS AND VEHICLES ENTERING DEPARTMENT FACILITIES.

In order to maintain the secure and orderly operation of the facilities, the Department shall control access to all Department facilities. All persons enter upon or in to a Department property or facility at their own risk and will be required to comply with security and control measures. (11-5-99)

01. Persons Subject To Search. All persons and vehicles entering a facility or upon Department property are subject to search. (11-5-99)

02. Photo Identification Required. All persons entering a facility or upon Department property will be required to possess and present on demand photo identification. (11-5-99)

03. Contraband Prohibited. Any person who shall bring any item or article of contraband on to or in a facility or upon Department property shall be subject to arrest and prosecution pursuant to Section 18-2510, Idaho Code. (11-5-99)

a. Members of the public bringing contraband on to or in a facility or Department property during a visit, tour or other sanctioned activity shall be subject to immediate and permanent cancellation of the visit, tour or other sanctioned activity. (11-5-99)

b. Vendors, contractors, interns, volunteers or employees bringing contraband on to or in a facility, Department property or inmate work site shall be subject to immediate termination of services as a vendor, contractor, intern, volunteer or employee. (11-5-99)

511. ACCESS TO DEPARTMENT FACILITIES.

Members of the public shall not have access to any facility or upon Department property except upon approval of the director, administrator of the division governing the facility, the facility head, or their designee. Persons entering on to or in a facility or Department property without approval shall be considered to be trespassing and may be prosecuted according to law. (11-5-99)

512. -- 600. (RESERVED).

601. PUBLIC PARTICIPATION IN INMATE ATHLETIC EVENTS.

Members of the public may participate in and compete against inmates in athletic events held within or without a facility upon the written approval of the administrator of the division governing the facility. Such competition shall not interfere with inmate work or training programs. (11-5-99)

602. -- 603. (RESERVED).

604. VISITING INMATES.

01. Visitation At the Discretion Of The Facility Head. Inmate visitation is allowed at the discretion of the facility head, or designee. Each division and each facility may promulgate directives or field memoranda to govern inmate visiting. Whether a visit is contact or non-contact shall be in the sole discretion of the facility head, subject to Subsection 405.03. (11-5-99)

02. Visitation Lists. To visit an inmate, a person must apply with the facility, on a form supplied by the facility, to be on the inmate's visiting list. Only persons approved to be on an inmate's visiting list may visit with an inmate except as noted in Subsection 604.03. (11-5-99)

a. Upon approval to be on the inmate's visiting list, the person shall be given a copy of the facility's guidelines governing visiting within the facility. (11-5-99)

b. A person applying to visit an inmate shall be subject to a criminal background investigation. (11-5-99)

03. Special Visits. The facility head, in his sole discretion, may approve a special one-time inmate visit between a person not on the inmate's visiting list and the inmate if doing so will not be contrary to penological interests. Application to the facility head for a special visit shall be made at least twenty-four (24) hours prior to the visit. (11-5-99)

04. Restricted Visitors. The following people shall not be granted permission to visit an inmate except as noted. Nothing in this section shall be construed to grant a right to visit or as a guarantee that an application for visiting will be approved after the minimum period stated or when the other stated conditions are met. Nothing in Section 604 shall grant a right to visit on behalf of an inmate. (11-5-99)

a. A former inmate shall not be approved for visiting unless the former inmate is the immediate family of the inmate and a minimum of six (6) months has passed from the former inmate's release from confinement. (11-5-99)

b. A probationer or parolee shall not be approved for visiting until a minimum of six (6) months from release to probation or parole and then only with the written approval of the supervising probation or parole officer in addition to the approval of the facility head. (11-5-99)

c. A minor shall not visit an inmate unless the minor is the immediate family of the inmate. A minor must be accompanied at all times during the visit by a parent or legal guardian. Proof of legal guardianship may be required by the facility head. (11-5-99)

i. A minor who was the victim of a crime enumerated in Sections 18-8304 and 19-5506, Idaho Code, whether conviction resulted or not, shall not visit an inmate except upon express written recommendation of a licensed counselor in furtherance of the counseling process and when it is in the best interests of the minor. What is in

the best interest of the minor shall be determined at the discretion of the facility head. (11-5-99)

ii. A minor claiming relationship to the inmate as a stepchild shall not visit unless the visiting parent obtains and files with the facility head a signed statement from the other natural parent, if available, authorizing and giving permission for the visit with the inmate. The visiting parent shall be responsible to establish to the satisfaction of the facility head the unavailability of a natural parent. (11-5-99)

d. An inmate who was convicted of any crime enumerated in Sections 18-8304 and 19-5506, Idaho Code, as the terms "crime" and "conviction" are defined in Sections 18-8304 and 19-5506, Idaho Code, where the victim of the crime was a minor shall not visit with any minor except when it is in the best interests of the minor. What is in the best interest of the minor shall be determined at the discretion of the facility head. (11-5-99)

e. A Department employee, volunteer, vendor, intern, or contractor shall not visit an inmate, except if the Department employee, volunteer, vendor, intern, or contractor is the immediate family of the inmate and the facility head provides express written approval. Upon termination of the relationship with the Department conferring the status of employee, volunteer, vendor, intern, or contractor, visiting shall not be approved with an inmate until a minimum of six (6) months from the date of termination of the relationship with the Department. (11-5-99)

f. A person shall not be on the approved visiting list for more than one (1) inmate at a time unless the person is the immediate family of all inmates. A person shall not be approved to visit an inmate if, within six (6) months prior to the current application, the person was an approved visitor on another inmate's visiting list. (11-5-99)

g. A person claiming a relationship as immediate family of an inmate may be required to provide proof through documentation the existence of the relationship. The level of proof required shall be at the discretion of the facility head. (11-5-99)

h. A person who has pending criminal charges or who is the subject of a criminal investigation shall not be permitted to visit an inmate, except upon express written approval of the facility head, or designee. (11-5-99)

05. Termination Of Visits. A visit may be terminated at any time, for any period of time, including permanently, for violation of any Board rule, Policy and Procedure, facility directive or at the discretion of the facility head or designee. Persons who have had visiting terminated permanently may apply to the administrator of the division governing the facility for reconsideration of the termination decision within fourteen (14) days from the termination of visiting and on an annual basis thereafter. (11-5-99)

06. No Right To Visit Conferred On Inmates. Nothing herein shall be construed to confer any right to visit to or on behalf of any inmate. Nothing herein shall be construed to confer any expectation of visiting for any previously approved visitor with any inmate who has had visiting privileges revoked by the facility head or who is otherwise not allowed to visit. (11-5-99)

605. (RESERVED).

606. VOLUNTEER SERVICES.

01. Volunteer Services Established. The Department may establish a program of volunteer services within the facilities. Based on penological interests, volunteers may be used to enhance and expand inmate programs. (11-5-99)

02. Facility Head Approves Volunteers. The facility head shall be the approving authority for all volunteers. Each facility head may designate a staff member to be responsible for coordination of the volunteer program. (11-5-99)

03. Screening Process. The screening process for volunteers shall include a criminal background check. (11-5-99)

04. Orientation And Training. Orientation and training of volunteers shall include completion of a training curriculum approved by the director. (11-5-99)

607. PUBLIC PARTICIPATION IN PROGRAM ACTIVITIES.

The public may participate in program activities with an inmate or group of inmates upon written approval of the facility head where the inmate is housed, if housed in a Department facility or upon written approval of the administrator of the division of prisons if housed in a non-department facility. (11-5-99)

608. INMATE HOBBY CRAFT.

Inmate hobby craft items may be sold to the public in compliance with division of prison directives. Any such sales shall include an amount for taxes owed and an addition to defray costs incurred by the facility. (11-5-99)

609. -- 610. (RESERVED).

611. BUSINESS WITH INMATES AND LABOR OF INMATES.

01. Guidelines To Be Developed. The Department shall develop guidelines for contracting with federal, state, local governmental entities, and non-profit public service organizations to provide inmates for public work projects. The director shall have the authority to sign any such contracts on behalf of the Department. (11-5-99)

02. Persons Prohibited From Contracting With Inmates. No person may contract with, solicit for contract or employment or employ any inmate without written approval of the director or his designee. (11-5-99)

612. -- 700. (RESERVED).

701. PROBATION AND PAROLE SUPERVISION.

01. Search Of Home, Vehicle And Property. Any person who resides with an offender under the supervision of the Department while on probation or parole or an offender released on furlough shall have the person's home, vehicle and property, both personal and real, subject to search by a probation and parole officer at reasonable times and in a reasonable manner to extent that the home, vehicle and property are accessible to the offender. The officer shall not need a warrant, reasonable suspicion, or probable cause. (11-5-99)

02. Visits At Place Of Employment. Any person who employs an offender under the supervision of the Department while on probation or parole, an offender housed in a community work center, or an offender released on furlough shall have the offender's designated work areas subject to inspection by a probation and parole officer at reasonable times and in a reasonable manner. The officer shall not need a warrant, reasonable suspicion, or probable cause. (11-5-99)

702. -- 705. (RESERVED).

706. COMMUNITY WORK CENTER ADVISORY BOARD.

01. Advisory Boards Established. The Department shall establish a community work center advisory board in each community of the state where a community work center is located. The advisory board shall consist of not less than four (4) nor more than seven (7) members. (11-5-99)

02. Advisory Board Member Selection. Initial selection of advisory board members should be from prominent civic and community leaders. Subsequent selection of advisory board members should be by recruitment by existing advisory board members from among members of the community. (11-5-99)

03. Duties Of The Advisory Board. The advisory board shall meet from time to time as they may determine. The advisory board shall provide advisory input into the establishment of guidelines and procedures for the operation of the community work center. (11-5-99)

707. -- 999. (RESERVED).

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