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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. Sections 74-106 and 74-119, Idaho Code. Pursuant to Section 74-105, Idaho Code, the Board has authority to adopt rules that identify certain department records to be exempt from public disclosure. Pursuant to Section 74-119, Idaho Code, the Board may 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. (6-19-19)

02. 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)

03. Section 20-101D, Idaho Code. Pursuant to Section 20-101D, Idaho Code, the Board has authority to adopt rules for meritorious conduct sentence reduction. (11-5-10)

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

05. Section 20-212, Idaho Code. Pursuant to Section 20-212, Idaho Code, the Board has authority to make all rules necessary to carry out the provisions of Title 20, Chapter 2, Idaho Code, consistent with express statutes or the state constitution. (6-19-19)

06. Section 20-217A, Idaho Code. Pursuant to Section 20-217A, Idaho Code, the director has authority to assume all the authority, powers, functions and duties as may be delegated to the director by the Board. (6-19-19)

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

08. Section 19-2716, Idaho Code. Pursuant to Section 19-2716, Idaho Code, the director has authority to determine procedures to be used in any execution. (6-19-19)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 06.01.01, “Rules of the Board of Correction,” IDAPA 06, Title 01, Chapter 01. (6-19-19)

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. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter. (7-6-01)

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

01. Mailing Address. Mail regarding the Board of Correction’s rules may be directed to the Board of Correction, Attn: Management Assistant, Office of the Director, 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. Mail regarding the Idaho Department of Correction may be sent to 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. (6-19-19)

02. Street Address. The Board of Correction’s administrative office and the Idaho Department of Correction are located at 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. (6-19-19)

03. Telephone Number. (208) 658-2000. (6-19-19)

04. Facsimile Number. Faxes may be sent directly to the person, division, or unit as requested. If the fax number is not provided by the person, division, or unit, contact the Department’s main reception at (208) 658-2000 to obtain the fax number. (6-19-19)

05. Internet Website. <https://www.idoc.idaho.gov/> (6-19-19)

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules of the Board are subject to, and in compliance with, the Idaho Public Records Act. (6-19-19)

007. -- 009. (RESERVED)

010. DEFINITIONS.

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

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

03. Board. The State Board of Correction. (11-5-99)

04. Chief. The exempt employee in authority over a division of the Department. Chief is commonly referred to as the division chief. (10-5-07)

05. Commission of Pardons and Parole. The decision-making body that has the authority to grant, revoke, reinstate, or refuse parole. The Commission of Pardons and Parole is commonly referred to as the Parole Commission. (10-5-07)

06. Contact Visiting. Visiting where no physical partition, such as a window or wall, separates the visitor and the offender. Physical touch may be allowed. (6-19-19)

07. Contraband. Any thing, of any kind, that is prohibited by Board, Department, or facility rules, policies, directives, or standard operating procedures. Contraband also includes any thing, of any kind, that a facility head has not approved: (10-5-07)

a. For possession by an offender; or (6-19-19)

b. To bring into a facility or onto Department property. (10-5-07)

08. 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)

- 09. Controlled Substance.** A drug or substance restricted by law in respect of use and/or possession. (6-19-19)
- 10. Department.** The State Department of Correction. (11-5-99)
- 11. Department Property.** Real property owned, leased, operated, or managed by the Board or Department. (10-5-07)
- 12. Directive.** A sequence of steps within a particular division to implement a procedure. (11-5-99)
- 13. Director.** The director of the Department of Correction. (11-5-99)
- 14. Division.** An operating unit of the Department. Department divisions are the divisions of Prisons, Probation and Parole, and Management Services. (6-19-19)
- 15. Execution.** The carrying out of a sentence of death. (11-5-99)
- 16. Facility.** A building or residence, including the property and land where the building or residence is located, owned, leased, operated, or managed by the Board or Department. (10-5-07)
- 17. Facility Head.** The person primarily responsible for overseeing, managing or operating a Department facility. (10-5-07)
- 18. Field Memoranda.** Detailed guidelines to implement directives within a facility or a service unit of a division. (11-5-99)
- 19. Health Authority.** The Department employee who is primarily responsible for overseeing or managing the Department's medical and mental health services. The health authority is commonly referred to as the health services director. (10-31-08)
- 20. Immediate Family of the Offender.** (6-19-19)
- a.** The mother or father, including step parent; (6-19-19)
- b.** The brother or sister of the whole or half (1/2) blood or by adoption, or the stepbrother or stepsister; (6-19-19)
- c.** The spouse, as proved by marriage license or other operation of law; (6-19-19)
- d.** The natural child, adopted child or stepchild; (6-19-19)
- e.** The grandparents of blood relation; or (6-19-19)
- f.** The grandchildren of blood relation. (6-19-19)
- 21. Inmate.** An individual in the physical custody of the Board. (11-5-99)
- 22. Minor.** An individual less than eighteen (18) years old. (6-19-19)
- 23. Noncontact Visiting.** Visiting with an offender where there are physical barriers between the visitor and the offender and the offender 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. (6-19-19)
- 24. Offender.** A person under the legal care, custody, supervision, or authority of the Board, including a person within or without the state of Idaho pursuant to agreement with another state or contractor. (11-6-09)

25. **Parolee.** An offender who is released from a facility by the paroling authority under certain terms and conditions and is under the supervision of a probation and parole officer (PPO) for an established period. (6-19-19)
26. **Penological Interests.** The security, programmatic, and rehabilitative interests of the Board and the Department. (11-5-99)
27. **Person.** An individual, corporation, governmental entity or organization, however organized or constituted. (11-5-99)
28. **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. (10-5-07)
29. **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)
30. **Probationer.** An offender supervised by a probation and parole officer (PPO) for an established period of time as established by the court. (6-19-19)
31. **Procedure.** A sequence of steps or actions to be followed to implement and support a rule or policy. (11-5-99)
32. **Public.** A person, of the general public, that does not include offenders, contractors, vendors, volunteers, interns, or the employees of the Board, Department, or the Commission of Pardons and Parole. (10-5-07)
33. **Special Investigations Unit (SIU).** The designated unit under the Director's office with primary responsibility for conducting investigations of employee misconduct allegations and providing assessment and general investigative services for the Department. (6-19-19)
34. **Tobacco Products.** Cigarettes, whether packaged or hand rolled, cigars, snuff, chew, or any other variation of a product containing tobacco. (11-5-99)
35. **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)
36. **Visiting Staff.** Employees of the Department or the Commission of Pardons and Parole conducting business in the Department central office building on a regular or irregular basis. (10-5-07)
37. **Visitor.** A member of the public, as defined herein, who is approved to visit a Department facility. (10-5-07)
38. **Volunteer.** An approved person who volunteers or donates time or services to the Board or a Department operation or facility, not employed by the Idaho Department of Correction (IDOC), who is at least eighteen (18) years of age and, of their own free will, provides good or services, for no monetary or material gain, to a facility and/or any of its sections. This person must: (6-19-19)
- a. Completed an application; (10-5-07)
 - b. Receive volunteer and facility orientation training; and (10-5-07)
 - c. Be approved by a facility head or designee. (10-5-07)

011. -- 012. (RESERVED)

013. DEPARTMENT FEE STRUCTURE.

In order to help the Department defray the cost of various services provided to offenders, the Department may charge the following fees. (11-2-12)

- 01. Presentence Investigation Fee.** Pursuant to Section 19-2516, Idaho Code. (6-19-19)
- 02. Cost of Supervision Fee.** Pursuant to Section 20-225, Idaho Code. (6-19-19)
- 03. Interstate Compact Application Fee.** Pursuant to Section 20-225A, Idaho Code. (6-19-19)
- 04. Maintenance/Room and Board Fee.** Pursuant to Section 20-242, Idaho Code, the Department may require that offenders pay an amount to the Board sufficient for the offender's board and personal expenses. The Department sets these fees in Department standard operating procedure. (6-19-19)
- 05. Hobby Craft Surcharge.** The Department may charge offenders who participate in facility hobby craft activities a surcharge to offset the cost of hobby craft supplies and items that are used by participating offenders, such as hobby shop tools. The Department sets the fee in Department standard operating procedure. (6-19-19)
- 06. Photo Copying Fee.** The Department may charge offenders a fee for photocopying court documents relating to qualified legal claims or other documents as authorized by the Department. Offenders have access to courts regardless of their inability to pay for photocopies related to qualified legal claims. The Department sets the fee in Department standard operating procedure. (6-19-19)
- 07. Medical Co-Pay Fee.** In order to offset the costs associated with offender healthcare services, the Department may charge offenders a fee for healthcare services. The IDOC and/or contract medical provider shall not deny an offender access to healthcare services based on the offender's inability to pay. The Department sets the fee in Department standard operating procedure. (6-19-19)

014. -- 103. (RESERVED)

104. TOBACCO FREE ENVIRONMENT.

Department Property shall be tobacco free. No person shall use tobacco products on or in Department Property, to include vehicles, except in designated areas. Tobacco products are not allowed in any Department correctional facility or CRC; any tobacco products must be kept in a securely locked vehicle in a Department parking lot. (6-19-19)

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 offender 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, complaints, and subpoenas against or upon the Board, the Department, or any employee of the Department for or related to 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. (10-5-07)

107. (RESERVED)

108. IDAHO PUBLIC RECORDS ACT.

01. Intent of the Board. It is the intent of the Board that the records of the Department shall be open to the public for inspection and copying at all reasonable times, unless the records or information contained therein is specifically exempted from disclosure by state or federal statute or court rule. The Board shall implement the exemptions for Department records as set forth in the Idaho Public Records Act. (6-19-19)

02. Public Records Requests. A written request for records of the Department shall be required. (6-19-19)

03. Custodian of Records. Certain Department employees are designated as official custodians of Department records. The employees designated as official custodians of the Department records may delegate duties and responsibilities of the custodians in order to more efficiently process public records requests. For purposes of this section, official custodians for records of the Department shall be: (1-4-02)

- a. The director; (1-4-02)
- b. The public information officer; (11-5-99)
- c. The central records manager; (11-5-99)
- d. The chiefs of the divisions; and (6-19-19)
- e. The facility heads. (6-19-19)

04. Records Exempt from Disclosure. In order to protect information consistent with the public's interest in confidentiality, public safety, security, and the habilitation of offenders, the Board has identified records of the Department to be exempt from disclosure in whole or in part. These records include, but are not limited to: (1-4-02)

- a. Records to be exempt in their entirety: (1-4-02)
 - i. Records of the Department that define specific building design details, such as facility blueprints, that if disclosed would jeopardize public safety and the security of the facility; (1-4-02)
 - ii. Records of the Department that define specific operations used to respond to and control emergencies, such as emergency plans, that if disclosed would interfere with the secure and orderly conduct of Department operations; (1-4-02)
 - iii. Records of the Department that define site-specific security operations, such as facility security procedures and site-specific post orders, that if disclosed would jeopardize public safety and the security of the facility; (1-4-02)
 - iv. Records containing information specific to the habilitation of any offender, including information tracking the behavior, progress or digression of a particular offender under the legal care, custody, supervision or authority of the Board, including a person within or without the state pursuant to an agreement with another state or a contractor. Notwithstanding this exemption, records of this nature specific to offenders sentenced to death shall be available to counsel of record for offenders sentenced to death, subject to redaction; (1-4-02)
 - v. Records of an offender when requested by another offender. For purposes of Subsection 108.04 the term offender shall not include an offender, probationer or parolee who has completed their sentence of incarceration or term of probation or parole; (6-19-19)
 - vi. Offender academic records. Notwithstanding this exemption, consistent with Family Educational Rights and Privacy Act, FERPA, 34 C.F.R. part 99, an offender's academic records shall be disclosed to school officials, including teachers, having legitimate educational interests. Further, an offender's academic records shall be disclosed to the offender's attorney of record in their criminal case, provided that the attorney first submit a release, on their letterhead, signed by the offender. A release under Subsection 108.04.a.vi. must be current, within six (6) months. (6-19-19)
 - vii. Pre-sentence investigation reports, addenda, and the information contained in or attached to the reports, shall not be disclosed to any person except as provided by Idaho Rules of Criminal Procedure; (1-4-02)
 - viii. NCIC and ILETs records, FBI/CIB identification sheets, police reports, and drivers services sheets; (1-4-02)

ix. Medical, counseling and treatment records. Notwithstanding this exemption, an offender's medical, counseling and treatment records shall be disclosed to the offender's attorney of record in their criminal case, or the offender's private professional health care provider, provided that the attorney or the health care provider submit a release for these records, on their letterhead, signed by the offender. A release under Subsection 108.04.a.ix. must be current, within six (6) months; (1-4-02)

x. Records identified in Rule 135 related to the Department's duty to carry out an execution pursuant to chapter 27, title 19, Idaho Code. (6-19-19)

b. Records exempt in part, subject to redaction: (1-4-02)

i. Records that contain any identifying information of any victims or witnesses or any information that would lead to the identification of any victims or witnesses; (6-19-19)

ii. Records of the Department containing the names and addresses of confidential informants, or containing information identifying confidential informants; (1-4-02)

iii. Department intelligence reports of offender criminal activity, that if disclosed would jeopardize public safety, the safety of confidential informants, offenders or staff, or the security of the facility; (6-19-19)

iv. Records that identify or would lead to the identification of a date, time, or a place of future transportation or movement of a prisoner; (1-4-02)

v. Department investigatory records, to the extent that disclosure of such records would interfere with enforcement proceedings, deprive a person of the right to a fair trial or impartial adjudication, disclose the identity of a confidential source or confidential information furnished only by the confidential source, disclose investigative techniques or procedures, or endanger the life or physical safety of any person. This exemption shall not preclude release of the following information: (1-4-02)

(1) The time, date, location, and nature and description of a reported crime, accident or incident; (1-4-02)

(2) The name, sex, age, and address of a person arrested, except as otherwise provided by law; (1-4-02)

(3) The time, date, and location of the incident and of the arrest; (1-4-02)

(4) The crime charged; and (1-4-02)

(5) Documents given or required by law to be given to the person arrested. (1-4-02)

vi. Employee personnel records. (1-4-02)

05. Records of Civil Commitments. 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 or court rules pertaining to individual privacy and the public's right to know. (1-4-02)

109. (RESERVED)

110. MEDIA AND PUBLIC RELATIONS.

Requests for an interview with an offender will be referred to the public information officer. The offender will be informed of the request for interview and the nature of the interviewer's interest. The offender may accept, decline or modify the request for interview. Requests for an interview with an offender will be accommodated by a telephone call from the offender to the media representative. An offender accepting a request for interview will be provided with the interviewer's telephone number and any specific time frame requested for the interview. The director, chief

of the division, or head of the facility where the offender is housed may deny the interview request. Face-to-face or on-camera interviews with an offender will be permitted at the discretion of the Director. (6-19-19)

111. -- 113. (RESERVED)

114. INMATE TRUST ACCOUNT.

01. Account Established in Inmate Name. Pursuant to section 20-209H, Idaho Code, the Department shall establish an account in each inmate's name at the time of admission to a facility. The Department shall develop guidelines for the withdrawal of funds by the inmate or to satisfy the inmate's financial obligations. (6-19-19)

02. Employers of Reentry Center Inmates. Any person employing an inmate housed in a community reentry center shall send the inmate's pay directly to the Department for deposit in the inmate's account. (6-19-19)

115. (RESERVED)

116. CUSTODY OF EVIDENCE.

All evidence confiscated from Department employees, offenders, contractors, or witnesses, that is or may be utilized in administrative investigations and inquiries, probation or parole revocation hearings, or criminal proceedings, shall be maintained in a safe and secure manner until completion of the investigation, inquiry, or proceeding. A member of the public claiming an interest in an item of evidence may file a written request for its return with the Department or law enforcement agency having jurisdiction. (6-19-19)

117. ACCESS TO DEPARTMENT PROPERTIES.

In order to maintain the secure and orderly operation of Department correctional facilities, community reentry centers (CRCs), and district probation and parole offices, the Department shall control access to these Department properties. Any person entering onto and/or into a correctional facility, CRC, or district probation and parole office property, shall do so at their own risk and will be required to comply with all written and/or verbal security and control measures. The Department shall not allow public access to any correctional facility, CRC, or district probation and parole office property without approval of the Board, director, division chief, deputy division chief, district manager, or facility head. The Department may consider any person who enters onto and/or into a correctional facility, CRC, or district probation and parole office property without a business purpose or approval to be trespassing and subject to arrest and prosecution pursuant to Idaho Code. (6-19-19)

01. Persons and Vehicles Subject to Search. All persons entering onto and/or into a correctional facility, CRC, or district probation and parole office property, may be subject to search. All vehicles entering onto a correctional facility, CRC, or district probation and parole office property may be subject to search and unattended vehicles must be locked and have keys removed. All vehicles entering the secure perimeter of a correctional facility shall be searched upon entering and exiting the facility. (6-19-19)

02. Photo Identification Required. The identification of all Department visitors is necessary to ensure staff safety and building security. All Department visitors shall identify themselves to Department staff upon entering into Department property. The identification of visiting employees may be made by visual recognition or the request to see a Department-issued identification card or law enforcement/peace officer badge, or both. The identification of all other visitors, not inclusive of officials escorted by a member of the Board, director, division chief, deputy division chief, district manager, or facility head, shall be through photo identification or law enforcement/peace officer badge, or both. (6-19-19)

03. Contraband Prohibited. (6-19-19)

a. The items allowed onto or into a correctional facility, CRC, or district probation and parole office property shall be controlled. Unauthorized items are called contraband and any person who brings or attempts to bring contraband onto or into a Department property may be subject to arrest and prosecution. (6-19-19)

b. Any person who brings a firearm into restricted areas of a district probation and parole office property shall be subject to Section 117 of these rules. (6-19-19)

04. Possessing Firearms and Other Deadly or Dangerous Weapons. Without the approval of the director or division chief, no person shall be allowed to enter into or onto Department Property with a firearm or other deadly or dangerous weapon. (6-19-19)

a. 'Restricted area' shall mean any area Department property in which certain security measures are carried out for the purpose of protecting staff or Department property, or both, from harm or theft. (6-19-19)

b. 'Possess' shall mean to bring a weapon, firearm, or other deadly or dangerous weapon, or to cause such items to be brought into Department property or Department vehicles. (6-19-19)

c. 'Firearm' shall mean any weapon, whether loaded or unloaded, from which a shot, projectile, or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether such firearm is operable or inoperable. (6-19-19)

d. 'Deadly or dangerous weapon' shall mean a weapon, device, instrument, material, or substance that is used for, or is readily capable of, causing death or serious bodily injury. (6-19-19)

05. Visiting Inmates. Inmate visitation is allowed at the discretion of the facility head or designee. Nothing in these rules establishes a right to visit any inmate. The facility head will determine whether a visit is contact or non-contact. All visitors must be approved in advance to visit with an inmate, unless an exception is granted by the facility head. All visitors are subject to a criminal background investigation and a check for outstanding warrants. Visitors are responsible for reading and following the Department's rules that govern visiting. The rules can be found at the Department's website or they can be obtained at the facility visiting room during visiting hours. (6-19-19)

a. Restricted Visitors. The Department may restrict any person from visiting an inmate, including, but not limited to: (6-19-19)

i. Former inmates. (6-19-19)

ii. Probationer or parolee. (6-19-19)

iii. Minor children who are not an immediate family member of the inmate. (6-19-19)

iv. A minor child who was the victim of a violent or sexual crime where the inmate was the perpetrator of the crime, whether a conviction resulted or not. (6-19-19)

v. Current or former Department employee, volunteer, vendor, intern, or contractor. (6-19-19)

vi. A person who has pending criminal charges. (6-19-19)

b. General Standards. 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 more than one (1) inmate being visited. A person will not be approved to visit an inmate if within six (6) months before the current application the person was an approved visitor on another inmate's visiting list. (6-19-19)

c. Termination of Visits. A visit may be suspended, restricted, or terminated at any time, for any period of time (including permanently), for violation of any of the following: (6-19-19)

i. Board rule; (6-19-19)

ii. Department policy, standard operating procedure, directive, or field memoranda; or (6-19-19)

iii. At the discretion of the facility head or designee. (6-19-19)

iv. Persons who have had visiting privileges permanently terminated may apply within fourteen (14) days to the chief of the division that governs the facility for reconsideration of the termination decision, and on an annual basis thereafter. (6-19-19)

d. Attorney Visits with Inmates. An attorney or approved agent may visit with an inmate consistent with this section and must abide by all Department regulations, policies, and standard operating procedures governing visiting. (6-19-19)

i. Visits between inmates under the sentence of death and attorneys will be permitted pursuant to Section 19-2705, Idaho Code. (6-19-19)

ii. Visits with groups of inmates will not be permitted unless the Office of the Attorney General has verified class certification or co-parties. (6-19-19)

iii. For safety and security purposes, the facility head may assign staff to supervise visits between inmates and attorneys or their approved agents. (6-19-19)

06. Tours or Sanctioned Activities. (6-19-19)

a. Tours. The Department may allow tours of facilities and property according to procedures approved by the director and tours will take place at times that ensure the safety and convenience of the facility or Department property. All persons under eighteen (18) of age must be accompanied by a parent or guardian or have written permission from the parent or guardian, unless approved by the director or designee. (7-1-19)

b. Sanctioned Activities. Under certain circumstances, and with an invitation from the director or designee, an individual may attend events or program activities held at a facility as long as attendance does not interfere with penological interests. (6-19-19)

07. Termination. Any visit, tour, sanctioned activities, or services shall be subject to immediate cancellation upon violation of Department rule or policy. (6-19-19)

118. -- 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. Research that is based solely on a review or analysis of existing data will receive an expedited review. (6-19-19)

02. Research Conducted with Human Subjects. Research conducted on offenders or employees, or both, 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. A consent form, signed by the offender or employee, will be required for all requests to conduct research with a human subject. (6-19-19)

03. Required Documentation. A written proposal; a copy of the school's Internal Review or Human Subject Review Board approval, if applicable; a copy of the consent, if applicable. Required documentation will be initially submitted to IDOC research unit. Required documentation must be submitted ninety (90) days prior to the proposed research start date. Once the proposal is approved by IDOC, a memorandum of understanding between the Department and the researcher(s) will establish the expectations of all parties. (6-19-19)

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. The written proposal, copy of the Internal Review or Human Subject Review Board approval, and copy of the consent form will be reviewed by the facility head, or designee, of the site where the research is to take place. These documents will be reviewed for compatibility with Department goals, programs and needs for research.

In addition, these documents 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. (10-5-07)

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. Department employees who wish to conduct research not requested by the Department must submit the required documentation noted in Subsection 134.03. (10-5-07)

e. Acceptable research proposals will be forwarded to the chief 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: (10-5-07)

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 Research Subjects. The rights and welfare of any offender or employee as research subjects will be safeguarded at all times. (6-19-19)

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 chief, facility head, or designee may terminate approved research at any time for noncompliance with any rule, policy or procedure, directive, or condition previously agreed upon, or for cause generated by an emergency situation or at the discretion of the director. (10-5-07)

135. EXECUTIONS.

01. Personnel Assigned to Execution. Idaho Maximum Security Institution (IMSI) personnel and the Department's administrative team will carry out the execution warrant. The IMSI facility head (or designee) shall be the official executioner. (1-11-12)

02. Method of Execution. Execution of the sentence of death shall be by lethal injection. (1-11-12)

03. News Media Coordination. Department personnel will coordinate news media activity and provide logistics and communications support. A news media center shall be established. The pre-execution briefing will be delivered in the news media center. The post-execution briefing will occur in the news media center. News media witnesses will be chosen pursuant to Department procedure. The director or designee will designate a public information officer to respond to execution-related news media requests and releases of information. (6-19-19)

04. Parking and Demonstration Areas Provided. Areas for public and news 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. (1-11-12)

05. Disclosure. (6-19-19)

a. Disclosure. The director shall determine and prepare written procedures, to be reviewed by the Board, to be used in any execution. At a minimum the procedures must address the substance or substances approved to be used, the process to test the composition of the substance or substances to be used, protocols and procedures related to the preparation and administration of the substance or substances to be used, staff, contractor and volunteer training, and qualifications of contractors or volunteers providing medical services. Except as provided by sections 74-105(4) and 74-105(19), Idaho Code, these procedures shall be made available to the public upon request.

(6-19-19)

b. Non-Disclosure. The Department will not disclose under any circumstance information wherein the director determines disclosure of such information could jeopardize the Department's ability to carry out an execution, including, but not limited to the following:

(6-19-19)

i. The identity of the on-site physician; (6-19-19)

ii. The identity of staff, contractors, consultants, or volunteers serving on escort or medical teams; (6-19-19)

iii. Information that identifies or could lead to the identification of any pharmacy, prescriber, manufacturer, compounder, or other entity that supplies or has supplied any chemicals or substances to the Department of Correction or any entity that provides or has provided medical supplies or services to the Department of Correction.

(6-19-19)

06. Persons Allowed in the Execution Unit. The director (or designee) shall have the discretion to determine the number of persons allowed in the execution unit at any time. In exercising this discretion, the director (or designee) shall consider the safe, secure, and orderly operation of the Idaho Maximum Security Institution (IMSI); the interests of the victim's family; and whether multiple death warrants are being executed concurrently. The configuration of the execution unit and the occupants of each room will be in accordance with Department standard operating procedure.

(1-11-12)

a. In most instances, the following persons should be allowed in the execution unit: (1-11-12)

i. The administrative team; (1-11-12)

ii. The escort team; (1-11-12)

iii. The medical team as identified by the Department's administrative team; (1-11-12)

iv. The on-site physician; (1-11-12)

v. The director or designee; (11-4-11)

vi. An Idaho Board of Correction representative; (1-11-12)

vii. The chief of the Prisons Division or designee; (6-19-19)

viii. The IMSI facility head or designee; and (1-11-12)

ix. The following witnesses: (1-11-12)

(1) The Ada County coroner or deputy coroner; (1-11-12)

(2) The sheriff from the county of conviction; (11-5-99)

(3) The prosecuting attorney from the county of conviction; (11-5-99)

- (4) A spiritual advisor of the offender's choosing; (1-11-12)
- (5) The sentencing judge; (11-5-99)
- (6) The Idaho governor or their representative; (1-11-12)
- (7) The Idaho attorney general or their representative; (1-11-12)
- (8) Two (2) members of the victim's family; (11-4-11)
- (9) Two (2) friends (approved visitors) or members of the offender's family; (1-11-12)
- (10) The offender's attorney of record; and (1-11-12)
- (11) Four (4) members of the news media pursuant to Subsection 135.03 of these rules. (1-11-12)

b. In the event that any of the persons, to include their designee or representative, identified in Subsection 135.07.a. of these rules, do not wish to attend the execution, the director or designee may approve another individual to attend in that person's place. (1-11-12)

136. MERITORIOUS REDUCTION OF SENTENCE.

01. Eligibility. An offender may be considered for a meritorious conduct reduction of sentence pursuant to 20-101D, Idaho Code. (6-19-19)

02. Limitations. The Director may withdraw an award of meritorious conduct reduction at their discretion based on an offender's serious misconduct, escape, or commission of a new crime. An offender shall be entitled to a hearing prior to any withdrawal of an award of meritorious conduct reduction. Nothing herein shall create any right or entitlement of an offender to receive a meritorious conduct reduction of sentence. (11-5-10)

137. -- 144. (RESERVED)

145. SUBPOENAS.

The Department shall conduct thorough and appropriate investigations and absconder apprehensions, in part, by requesting, reviewing, processing, and issuing subpoenas consistent with Sections 20-209G and 20-228A, Idaho Code. (11-6-09)

01. Subpoena Authority. The Director has the authority to require, by way of an administrative subpoena, the production of all documents that are necessary in the performance of the functions assigned by law. (11-6-09)

a. Special Investigations Unit investigators, conducting an authorized inquiry or investigation, may request an administrative subpoena be issued for documents. (6-19-19)

b. Probation and parole officers, assisting in the apprehension of parolees who have absconded and for whom there are arrest warrants, may request an administrative subpoena be issued for documents. (11-6-09)

02. Service of Subpoenas. SIU is responsible for serving all subpoenas. The investigator will personally serve the administrative subpoena at the principal place of business or residence of the person being served. A duplicate original (i.e., a second copy with original signatures) shall be left with the business or person being served. (6-19-19)

03. Timelines for the Production of Documents. The business or person on whom the service was successfully executed, must be allowed at least seven (7) calendar days to produce the documents requested in the administrative subpoena. (6-19-19)

04. Compliance and Noncompliance with the Served Subpoena. Upon compliance with the terms of

the subpoena, the Special Investigations Unit investigator will file and record receipt of the documents subpoenaed. If the business or person subpoenaed to produce the documents does not comply with the subpoena, the investigator will promptly advise the deputy attorneys general who represent the Department, via memorandum, describing the relevant circumstances. The deputy attorneys general will advise the investigator and the Director as to whether to compel production of the documents via court action and, if so, develop a strategy and procedures to compel compliance. (6-19-19)

05. Reimbursement. Generally, subpoenaed businesses or persons are entitled to reimbursement of reasonable costs associated with searching for, assembling, and copying subpoenaed documents pursuant to Idaho Rules of Civil Procedure, Rule 35. (11-6-09)

a. Financial institutions, as defined in 12 U.S.C. Section 35, Right to Financial Privacy Act, may seek reimbursement for the costs of providing a customer's financial records. (11-6-09)

b. Pursuant to 18 U.S.C. Section 2706, telecommunication carriers are authorized to charge a reasonable fee to cover the costs of searching for and providing information responsive to a subpoena. Some agency subpoenas are an exception to this rule but only to the extent that they seek records or other information maintained by a common carrier that relate to telephone toll records and telephone listings. (11-6-09)

i. Telephone toll records generally include records of outgoing long-distance calls made from a landline and records of all incoming and outgoing calls made to and from a cellular phone. (11-6-09)

ii. With respect to landlines specifically, the cost of searching for records of incoming local calls is reimbursable, and the cost of searching for records of incoming long-distance calls may also be reimbursable. (11-6-09)

c. Upon receipt of an invoice for documents provided by any business or person, the Special Investigations Unit chief investigator or designee will consult with the deputy attorneys general to determine if reimbursement is required. When reimbursement is approved, invoices will be paid by the respective Department division. (6-19-19)

146. -- 301. (RESERVED)

302. HOUSING OFFENDERS IN COUNTY FACILITIES.

01. Payment of Daily Fee. The Department shall pay an Idaho county housing an offender committed to the custody of the Board 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. (10-5-07)

a. The fee includes the ordinary daily expenses of housing an offender, including room and board. (11-5-99)

b. The Department will pay for all ordinary medical and dental expenses of offenders committed to the custody of the Board subject to the provisions of Subsection 302.05. (10-5-07)

c. The Department shall not make payment for offenders held on pending charges, offenders temporarily returned to the jail by order of the court, and offenders otherwise held under court-ordered jurisdiction. (6-19-19)

02. Notification of New Commitment. Upon receiving into custody an offender sentenced to imprisonment and committed to the custody of the Board, the sheriff shall notify the Department. Notification shall be made by sending a copy of the judgment of conviction to the Department by certified mail or facsimile. (10-5-07)

03. Accepting the Offender for Transport to a Department Facility. (11-5-99)

a. A newly sentenced and committed offender 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 designee authorizes the transport in writing; and (11-5-99)

b. If a sheriff moves an offender committed to the custody of the Board to the jail of another county, the sheriff must immediately notify the Department. The sheriff shall not transfer an offender committed to the custody of the Board to jail located in another state without the approval of the director or designee. (6-19-19)

c. Prior to the date of the transport of the offender from a county jail to a Department facility, the sheriff shall have sent the following information about the offender to the Department central records bureau: (10-5-07)

i. Judgment and commitment orders from the court; (11-5-99)

ii. Jail disciplinary and incident reports, if any; and (11-5-99)

iii. Medical and psychological files. (11-5-99)

04. Conditions of Confinement. The policies and guidelines of the county jail shall apply while the offender is confined at the county jail, except as may be modified by this section or agreement between the Board and the county jail. (10-5-07)

05. Medical, Dental, Psychological and Psychiatric Care. Delivery of routine medical, dental, psychological, and psychiatric services shall be the responsibility of the jail where the offender is held, however, the Department's health authority shall have the responsibility for approving medical, dental, psychological, and psychiatric health care payments for offenders committed to the custody of the Board and housed in county jails. (10-5-07)

a. All medical services for an offender housed in a county jail delivered outside the county jail, including consultant appointments, scheduled hospitalizations, and dental care, shall be approved by the health authority or designee prior to occurring, except as noted in Subsection 302.05. (10-5-07)

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 offender out-of-state, requires prior approval by the health authority or designee. (10-5-07)

d. Failure to make the notifications required by Subsection 302.05 to the health authority or designee will result in the county jail being held responsible for any charges or expenses incurred. (10-5-07)

e. Transportation of the offender to and from appointments shall be the responsibility of the county jail. An offender committed to the custody of the Board shall not be left without security escort, except as may be approved by the director or designee. (10-5-07)

06. Transporting Offenders. The Department will transport newly committed offenders from the county jail to a Department destination determined by the Department. The sheriff shall transport offenders to and from a Department facility and the county jail when a court appearance is ordered. Other transport arrangements may be made between the Department and the sheriff. (10-5-07)

07. Offender Work Assignments. Offenders committed to the custody of the Board who are being held in county jails may be assigned to work assignments or work projects. No offender shall be assigned to a work assignment or project outside of the secure perimeter of the jail. An offender shall not be outside of the secure perimeter of the jail when not directly supervised or escorted by security personnel, except upon approval of the director or designee. (10-5-07)

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 if in the opinion of the facility head doing so will not be contrary to penological interests. (6-19-19)

312. DECEASED INMATES.

01. Notifications. Upon verification of the death of an incarcerated inmate, the facility head or designee shall notify the coroner of the county in which the facility is located and the offender's family in accordance with emergency contact information the inmate has on file with the facility. (11-2-12)

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 31-2801, Idaho Code, unless the autopsy was waived. (11-2-12)

03. Delivery of the Body to a Funeral Home. As soon as possible after the death of the incarcerated inmate, the facility head or designee 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. (11-2-12)

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 or designee 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 their sole discretion, accept financial responsibility for the costs of interment on behalf of the Department. When the Department accepts financial responsibility for the costs of interment, the interment will be by cremation. (11-2-12)

05. Disposition of the Deceased Inmate's Money and Property. After the death of an incarcerated inmate, the facility head or designee will make a good-faith effort to locate the person or charitable organization the deceased inmate designated in emergency contact information to receive their money and property after interment and property mailing decisions have been made. (11-2-12)

a. In cases where none of the deceased inmate's family or friends take financial responsibility for the deceased inmate's interment, the Department shall first apply the deceased inmate's money towards the inmate's interment. (11-2-12)

b. In cases where the person or charitable organization the deceased inmate designated to receive their property and the designated person or charitable organization requests that the deceased inmate's property be mailed, the Department shall secondly apply the deceased inmate's money towards the cost of mailing the deceased inmate's property to the person or charitable organization. If no money remains to cover the cost of mailing the deceased inmate's property, the person or charitable organization will have to arrange with the facility to pick up the property, or if the person or charitable organization declines to pick up the property, the Department may dispose of the property in accordance with Department standard operating procedure. (11-2-12)

c. Any money remaining after the deduction of interment and property mailing costs shall be released by the Department to the person or charitable organization the deceased offender designated in emergency contact information to receive their money and property. (11-2-12)

i. If the Department is unable to locate the person or charitable organization designated to receive the deceased inmate's money, the Department will hold the money for up to two (2) fiscal years and then process the money as unclaimed funds. The Department shall submit all unclaimed funds to the Idaho State Treasurer's Office. (11-2-12)

ii. If the Department is unable to locate the person or charitable organization designated to receive the deceased inmate's property, the Department will hold the property for up to one hundred eighty (180) days and then donate or destroy the property in accordance with Department standard operating procedure. (11-2-12)

06. Inmates Housed in Non-Department Facilities. If an incarcerated 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 offender. (11-2-12)

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 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. All incoming mail shall be opened and inspected to ensure it does not contain prohibited items and may be withheld from delivery to the inmate. Any sender of mail that violates the provisions of these rules, Department policies, or standard operating procedures may, at the sole discretion of the facility head, be restricted or prohibited from sending mail to or receiving mail from any inmate. (6-19-19)

02. Legal Mail. Legal mail is confidential communication directly between an inmate and an attorney for the purposes of seeking or providing legal services, an inmate and the court, and service documents pursuant to court rules. (6-19-19)

a. To be recognized and treated as legal mail, correspondence from a legal source must be clearly marked "Legal Mail" and display the name, title and address of the sender. (10-5-07)

b. Legal mail will be opened in the presence of the inmate and may be scanned to ensure that it does

not violate the provisions of these rules, Department policies, or division standard operating procedures. (6-19-19)

c. Any sender of legal mail that violates the provisions of these rules, Department policies, or standard operating procedures may, at the sole discretion of the division chief, have all incoming and outgoing mail treated as regular mail. (6-19-19)

03. Confidential Mail. Confidential mail includes correspondence sent to or received from persons or entities such as the following: the President of the United States, the governor, the Idaho Legislature or U.S. Congress (except for bulk mailings), the Board, the director, IDOC chiefs and deputy chiefs, facility heads, PREA reporting and support contacts, public interest groups or government entities providing assistance for inmates, the Idaho Commission of Pardons and Parole or any member thereof, or the Consulate or Embassy of an inmate who is a foreign national. (6-19-19)

a. Confidential mail will be opened in the presence of the inmate and may be scanned to ensure that it does not violate the provisions of this section, Department policies, or division standard operating procedures. (6-19-19)

b. Any sender of confidential mail that violates the provisions of these rules, Department policies, or standard operating procedures may, at the sole discretion of the facility head, have all incoming and outgoing mail treated as regular mail. (6-19-19)

04. Prohibited Mail. Mail, including a publication, that poses a threat to the penological interests of the Board or Department may be withheld from the inmate. 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. A list of the types of materials prohibited can be found at the Department's website or it can be obtained by request. (6-19-19)

05. Withholding of Prohibited Material. Any incoming mail suspected of containing any prohibited material defined in this section shall be withheld and reviewed by the facility head or designee to determine if it should be withheld or delivered to the inmate. If the facility head determines that the mail should be withheld, the offender will be given written notice. The offender may use the Department grievance procedure to contest the decision. (10-5-07)

403. INMATE RELIGIOUS PRACTICES.

Inmates 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 a compelling government interest. If compelling governmental interests burdens an offender's religious practice, the Department will use the least restrictive to further that interest. (6-19-19)

404. (RESERVED)

405. 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 offender or group of offenders when doing so will not be contrary to penological interests. The facility head in consultation with the court may allow members of the public who are not witnesses to the proceeding into the facility to observe the proceeding when in the opinion of the facility head doing so will not be contrary to penological interests. (6-19-19)

406. -- 502. (RESERVED)

503. TELEPHONES.

Inmates are not allowed to use facility telephones except upon written permission of the facility head or designee. All telephone calls made from the inmate system are subject to being recorded. The facility staff shall make every reasonable effort to identify and not monitor telephone calls between an inmate and the inmate's attorney. (6-19-19)

504. -- 605. (RESERVED)

606. VOLUNTEER SERVICES.

The Department may establish a program of volunteer services within the facilities. All volunteers are subject to a criminal background check and must be approved by the appropriate authority. Orientation and training of volunteers shall include completion of a Department-approved training curriculum. (6-19-19)

608. -- 610. (RESERVED)

611. BUSINESS WITH INMATES AND LABOR OF INMATES.

01. Guidelines. The Department may contract with federal, state, local governmental entities, and non-profit public service organizations for public work projects. (6-19-19)

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 designee. (11-5-99)

612. -- 999. (RESERVED)

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