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	8/1/2021	17	03-02-116
POLICY AND ADMINISTRATIVE PROCEDURE Manual of Policies and Procedures			

Title YOUTH PERSONAL PROPERTY

Legal References (includes but is not limited to) IC 4-24-6-2; 4-24-6-5; 11-8-2-5 (a) (8-9); 11-8-6-1; 11-10-12-1(a) (1); 11-11-2-1; 11-11-3-7	Related Policies/Procedures (includes but is not limited to) 03-02-105 02-01-103 03-02-101 04-01-104	Replaces: NEW
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I. PURPOSE:

This policy and administrative procedure establishes the types and maximum amounts of personal property that a youth may bring into and maintain while incarcerated in the Division of Youth Services. Additionally, this policy and administrative procedure establishes guidelines for the accounting and disposition of a youth's personal property.

II. POLICY STATEMENT:

Youth shall be permitted to obtain and possess certain personal property while incarcerated in the Division of Youth Services (DYS). The personal property that a youth is allowed to possess must be used in an approved manner and must not constitute a threat to the safety, good order, and security of the facility. The Division of Youth Services facilities shall establish a list, based upon the type of facility and its security level that indicates the type and maximum limit on the personal property that a youth may keep in their possession. This list shall take into consideration the needs of the youth and the objectives of the facility(ies). The Division shall limit possession of certain types of personal property based upon health, fire, and safety issues and the promotion and maintenance of good order and administrative manageability. All personal property retained by DYS facilities shall be inventoried, receipted, stored, and returned to the youth within a reasonable time upon the youth's release from the Department.

A youth's personal property may be searched, and if it is determined to be contraband or prohibited property, seized. Any seizure of personal property shall be done in such a manner as to avoid unnecessary force, embarrassment, or indignity to the youth. A youth may appeal the seizure of personal property through the DYS Grievance Program. Additionally, a youth may

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file a Tort Claim, in accordance with the Indiana Code, if property is lost, damaged, or destroyed by Department staff.

Youth shall not be permitted to operate any private business, either for profit or non-profit, while incarcerated in the Department without written authorization from the Commissioner. Such authorization shall be given only after considering the general welfare and safety of all parties that might be impacted by the private business.

The Department shall establish procedures for the storage and disposition of personal property belonging to youth who have died while in the custody of the Department or who have escaped from custody. The disposition of the personal property of deceased or escaped youth shall be in compliance with State statute.

III. DEFINITIONS:

As used in this policy and administrative procedure, the following definitions apply:

- A. **BUSINESS ACTIVITY:** Any venture, enterprise, or other activity by which a youth or others acting on the behalf of a youth engage in the sale, barter or exchange of goods and/or services or the solicitation of funds and/or services, including, but not limited to, any activity done in the name of an entity or organization rather than in the name of the youth. This venture, enterprise or activity may be either for profit, not-for-profit, private, or charitable.
- B. **CONTRABAND:** An item the possession of which is in violation of Indiana or federal Statute.
- C. **CORRESPONDENCE STORAGE BOX:** A standard departmentally-issued, storage container issued for use in a youth's living area or for a designated storage area for the storage of legal materials, books, magazines, newspapers and correspondence.
- D. **HOBBY CRAFT:** An activity or handicraft conducted by a youth during leisure time, which may have a market value if sold.
- E. **IMMEDIATE FAMILY MEMBER:** A youth's spouse, mother, father, sister or brother, step-mother, step-father, step-sister, step-brother, half-sister, or half-brother, child or stepchild, grandparent, or legal guardian.
- F. **INTAKE UNIT:** Any facility or any unit within a facility designated by the Commissioner to receive youth from a court.

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G. LEGAL MATERIALS: Pleadings, complaints, petitions, motions, briefs, exhibits, Department policies/procedures, affidavits, transcripts, expert reports; correspondence to and from attorneys or persons employed by an attorney in a legal capacity; correspondence to or from courts or expert witnesses; copies of case law; notices of filing or other documents to be filed in a court of law, court of claims, or other forum in which a suit may be filed; documents to be filed in support of clemency petition; or other documents which are or may be required to be served upon opposing counsel or parties.

H. PROHIBITED PROPERTY: Any property item, other than contraband, that:

1. Is not specifically permitted by department administrative procedures or by the Warden of the facility;
2. Exceeds established limits;
3. Is misused or is used in a manner other than has been approved by the Warden or designee; or,
4. Is in the possession of an unauthorized person.

I. PROPERTY: An item that the department permits a youth to possess.

J. PROPERTY STORAGE AREA: A physical location designated by a Warden as the area where a youth’s personal property and belongings are stored when not in the possession of the youth.

K. TORT CLAIM ADMINISTRATOR: The staff person in the Division of Legal Services designated to process Tort Claims from youth concerning the loss of the youth’s personal property.

IV. NOTIFICATION OF COMMUNITY AGENCIES OF PROPERTY A YOUTH MAY POSSESS:

The Commissioner, or designee, shall ensure that the following agencies are supplied with a list of property that a youth may bring to the intake unit:

1. County Sheriff;
2. All judges having criminal jurisdiction; and,
3. All judges having juvenile court jurisdiction.

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V. PERMITTED PROPERTY (See Operational Procedure):

Youth shall be permitted to maintain only the types and amounts of property indicated in the facility's operational procedure. The amounts and types of property indicated in the operational procedure shall be considered maximum amounts that may be maintained by a youth in a specified privilege level. The amounts and types of property permitted a youth for achieving a specific privilege level shall remain the same for each youth; however, the Warden may reduce the amount of property allowed for the facility and/or disallow certain items based upon operational concerns of the facility.

Any property which the youth brings into the facility and which the youth is permitted to keep shall be the youth's responsibility. The youth shall assume all liability for any property that is left in an unsecured location. The facility shall not assume any responsibility for lost or stolen property that the youth has been permitted to maintain in their living unit.

VI. GENERAL PROVISIONS REGARDING YOUTH PERSONAL PROPERTY:

The following provisions shall be applicable to all youth:

- A. All of the youth's personal property shall be stored in a safe and secure manner in accordance with this policy and administrative procedure or any facility directives developed by the facility.
- B. All property in a living area shall be stored in a manner that will not obstruct lines of sight or paths of entrance to or exit from the living area.
- C. The use of electrical appliances shall be controlled by the Warden and shall be based upon the safety and security of the facility, including any applicable health and safety regulations.
- D. Decorations and furnishings of living areas shall be noncombustible and controlled by the Warden based upon the safety and security of the facility.
- E. The affixing of posters, photographs, paper or other items to the walls, ceilings, floors, doors, windows, bars, furniture or storage boxes and the open display of nude images, depictions or photographs or any images, depictions or photographs that would be offensive or threatening to other persons (including but not limited to gang symbols or depictions, racist, or discriminatory materials) shall be prohibited.
- F. Any youth who damages or defaces their assigned storage locker or container shall be subject to disciplinary action in accordance with Policy and Administrative Procedure 03-

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02-101, “Code of Conduct for Youth.”

Unless otherwise specified in policy and administrative procedure, a youth’s personal property shall be stored in an assigned storage locker or container.

Correspondence may be stored in an assigned storage locker.

VII. INTAKE PROCEDURES:

All items which accompany the youth shall be inventoried and classified as to:

- A. Contraband;
- B. Prohibited property; or,
- C. Property.

All items shall be receipted. The employee assigned to inventory the property shall do so in the presence of the youth and shall prepare a receipt for all property inventoried. State Form 4876, “Inventory of Offender Personal Property,” or a similarly approved State form shall be used for this purpose. If the youth cannot be present for the inventory, a second staff person shall monitor the inventory and sign the inventory list. If the youth is present for the inventory, but refuses to sign the inventory list, a second staff person shall sign the list and indicate the youth refused to sign.

At the time that the youth’s personal property is inventoried, the youth shall be issued a personal property storage box, labeled with the youth’s name and DOC number. Youth shall be required to store their personal clothing in the personal property box. Approved property shall be stored in a locker provided in the living area.

State Form 4876 shall be distributed as follows:

- A. Original in the youth’s facility packet;
- B. Copy inside the property storage box;
- C. Copy to clipboard in property storage area in proper alphabetical order; and,
- D. Copy to the youth.

VIII. DISPOSITION OF PROHIBITED PROPERTY:

When any property, prohibited property or contraband is seized, the youth shall be given written notice of the seizure on State Form 36030, “Notice of Confiscated Property.” The youth must also be informed that they have the right to challenge any action relevant to property or the disposition of any property in accordance with Policy and Administrative Procedure 03-02-105,

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“The Youth Grievance Process.” Prior to the end of the shift, the assigned staff shall store the confiscated property pending final disposition of the items. The items must be logged in for accountability. Additionally, the facility is responsible for ensuring the youth completes State Form 21682, “Disposition of Offender Personal Property/Correspondence,” within fifteen (15) days of arrival at the facility. The following disposition alternatives shall be pursued:

- A. If available, transporting staff shall be requested to return the property to the youth’s commitment county for proper disposition;
- B. The youth may identify someone to whom the items may be shipped;
- C. The youth may identify a charitable organization to which the items may be sent; or,
- D. The items may be disposed of in any other reasonable manner.

IX. RECEIPT AND INVENTORY OF PROPERTY RECEIVED:

When transferred, all property and available monies in the youth’s Inmate Trust Fund Account shall accompany the youth, except in an emergency situation. Prior to the transfer of a youth, staff shall inventory and box a youth’s personal property. A copy of the inventory shall be placed with the youth’s property and a copy placed in the youth’s facility packet. The youth shall be asked to sign the inventory and the youth’s signature shall be witnessed by the employee inventorying the property. If the youth refuses to sign the inventory, a second employee shall sign indicating that the youth refused to sign.

Upon arrival at facility, the youth’s property and money, if any, shall be inventoried. The youth shall be requested to sign the inventory listing all property and monies and the staff person conducting the inventory shall sign as a witness. If the youth refuses to sign the inventory, a second staff member shall sign indicating the youth’s refusal to sign. Whenever possible, the youth shall be present during the inventory.

If a youth arrives at the facility with prohibited property, this property shall be inventoried and packaged. A copy of the inventory shall be attached to the package and the package shall be placed in the property storage area. The youth shall be advised that this property is considered prohibited property and that the youth has a maximum of fifteen (15) days to dispose of this property. The youth may dispose of the property in accordance with the intake unit procedure found in Section VIII.

After the fifteen (15) days’ period, if the youth has not made arrangements for the disposal of the prohibited property, the Warden shall determine a reasonable disposition of the property. Disposition at this time does not require the approval of the youth provided that the youth has

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been notified of the fifteen (15) day waiting period and the disposition is in accordance with this procedure and Section VIII.

X. PERSONAL PROPERTY STORAGE BOXES:

At the time that the youth is received and their personal property is inventoried, the youth shall be issued a personal property storage box. When a youth is transferred from one facility to another, the personal property storage box shall remain with the youth, unless the youth arrives at the facility with a personal property storage box of an inappropriate size.

Permitted property shall be maintained by the youth in an assigned locker on the living unit. All prohibited property (pending disposition within fifteen [15] days) and personal clothing will be maintained in a property box in the designated storage area.

XI. TRANSFER OF A YOUTH:

Prior to a transfer a youth’s personal property it shall be inspected, inventoried, packed, and receipted by staff. This property shall be inventoried in the presence of the youth and, whenever possible, staff shall ensure that the youth’s property does not include any prohibited property/contraband and that all amounts are within the limits established by the facility.

Staff shall complete State Form 4876, “Inventory of Offender Personal Property.” The youth shall be required to sign the inventory form. If the youth refuses to sign the form, a second staff person who witnessed the inventory shall indicate that the youth refused to sign and sign the form. The original of this form shall be given to the youth. A copy of the inventory form shall be placed in the youth’s facility packet.

Once the property is properly inventoried, it shall be placed in a large bag with the youth’s name on it and a copy of the personal property form in the bag.

If the youth has been issued a correspondence box or has other boxes for excess legal material, these boxes shall be inventoried as well. The inventory of each of these boxes shall be placed in the boxes with a copy given to the youth and a copy placed in the youth’s facility packet. Correspondence and excess legal material storage boxes are the only other containers that will be transported with the youth. Staff assigned by the facility shall complete this process.

The receiving facility shall ensure that a copy of the inventory form is received when the youth arrives. If the receiving facility does not find a copy of the inventory form, the Shift Supervisor shall contact the sending facility to determine where the inventory form might be. The receiving facility shall inventory all of the youth’s property to ensure that all indicated property is present. If the youth is provided with a correspondence storage box it shall be stored in the personal

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property room. Any excess legal materials shall be stored in accordance with this policy and administrative procedure.

XII. TEMPORARY TRANSFER OR ABSENCE OF A YOUTH:

A temporary transfer or absence of a youth includes:

1. Temporary Leave (Home Pass for Treatment Unit only);
2. Bedside or funeral visit;
3. Temporary release on court order;
4. Temporary inter-facility transfer; and,
5. Medical leave.

In all instances, the youth shall return to the facility with only those items that were taken on the temporary transfer or absence. When a youth transfers to another facility, only one State issue of clothing is to accompany the youth.

XIII. EMERGENCY TRANSFERS:

Youth who are transferred to another Department facility on an emergency basis may be transferred without their property and monies. The facility shall collect and inventory all personal property left behind by the youth. A second employee shall witness the inventorying and collection of the youth's property and shall sign the inventory list. The facility shall ensure it has the correct mailing address. The personal property shall be packaged in the personal property storage box by the staff and forwarded to the Fiscal Department for mailing. The Fiscal Department may use money from the youth's trust fund account to mail the property.

The youth's personal property and all available monies within the youth's Inmate Trust Fund Account shall be transferred to the receiving facility within ten (10) days from the date the youth is transferred. The receiving facility shall process the youth's property in accordance with these procedures. The monies received for the youth's Inmate Trust Fund Account from the sending facility shall be processed in accordance with Policy 04-01-104, "Inmate Trust Fund." However, monies received from another Department facility shall be available to the youth immediately.

This procedure is to be used anytime a youth is transferred from the facility without their property.

XIV. TRANSFER OF PROPERTY TO ANOTHER YOUTH:

Property shall not be transferred from one youth to another youth.

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XV. RELEASE OF PERSONAL PROPERTY:

At the approval of the Warden or designee, a youth may request the release of property retained by the facility if the youth wishes to return the property to relatives or family. If a youth chooses to send property home with visitors, any item sent home shall be noted on State Form 4876, "Inventory of Offender Personal Property," and signed by the youth. Under normal circumstances, all property which accompanies a youth into the facility will be inventoried. When the youth has been classified and departs the facility, all property which a youth came in with, will depart with the youth.

XVI. MONIES IN PHYSICAL POSSESSION OF YOUTH:

After the monies are received from a youth upon initial intake, all monies in the physical possession of a youth shall be considered prohibited property and shall be confiscated. Any monies confiscated shall not be placed in the youth's Inmate Trust Fund Account. Instead, the youth may be charged with a violation of the Code of Conduct for Youth and the money deposited into the facility Recreation Fund.

XVII. RELEASE OF MONEY FROM A YOUTH ACCOUNT:

All requests for release of money from a youth's Inmate Trust Fund Account, other than for commissary purchases, must provide specific information and reasons for withdrawal. The burden of proof for the legitimacy of the request lies with the youth. Funds may be withdrawn for the following reasons:

1. To send to immediate family members or friends;
2. To purchase items through mail-order companies as approved by the Warden; or,
3. Other reasons which relate to the rehabilitative, spiritual, or personal growth of the youth.

Requests for withdrawal of funds must have the approval of the Warden. Requests to purchase items through a mail order company must be accompanied by a statement requiring payment.

Youth who request to withdraw funds from the Inmate Trust Fund Account, for any reason other than commissary purchase, shall complete State Form 35720, "Request for Remittance." This request shall be forwarded to the Warden. If approved by the Warden, the request shall be forwarded to the Business Office for processing.

Youth who request to withdraw funds from their Inmate Trust Fund Account to purchase items through a mail-order company shall complete State Form 35720. The youth shall also complete the order form for the item they are requesting to purchase and an addressed, stamped envelope.

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All of these items shall be attached to the request form and forwarded to the Warden. If approved by the Warden, the request shall be forwarded to the Business Office for processing.

All withdrawal of funds from the youth's Inmate Trust Fund Account shall be in accordance with Policy and Administrative Procedure 04-01-104, "Inmate Trust Fund."

XVIII. INTEREST BEARING ACCOUNTS AND CHECKING ACCOUNTS:

Youth committed or ordered to the Department who possess an interest-bearing account or checking account at the time of intake may keep such accounts and shall be entitled to all interest. The checkbook, savings passbook, certificate of deposit book, customer copy of money orders or cashier's checks or other instrument of transfer shall be prohibited property and may be stored by the facility or sent to a friend or relative of the youth at the youth's request. Such items may be obtained for use only upon approval of the Warden. Approval for such requests shall be based on the security needs of the facility. Youth may not open accounts other than the Inmate Trust Fund Account without approval of the Warden. Approval for such requests shall be based on:

- A. Security and safety needs of the facility;
- B. The purpose for opening the account;
- C. The amount of money involved; and,
- D. The rehabilitative value of the account to the youth.

In no instance shall two (2) or more youth open a joint account. If the opening of an interest-bearing account or checking account is approved, the youth shall not designate any friend, relative, or staff person as a co-signatory. This procedure shall apply to all youth under the care, custody and control of the Division of Youth Services.

XIX. SEARCHES:

Searches for contraband and prohibited property may be conducted as directed by the Warden/designee, of a youth's:

- 1. Living quarters;
- 2. Work area;
- 3. Incoming and outgoing packages (items not covered by Policy 02-01-103, "Offender Correspondence"); and,
- 4. Other areas.

Such searches shall be reasonable and conducted so as to ensure safety, security, and continued operation of the facility. Searches shall be conducted so as to avoid unnecessary force and

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embarrassment or indignity to a youth. Searches shall be authorized and conducted consistent with Policy and Administrative Procedure 02-03-101, "Searches."

XX. SEIZURE OF PROPERTY:

All prohibited property or contraband found by staff shall be seized. Property may be seized if its use or possession is a danger to the security, safety or operation of the facility. When any property, prohibited property or contraband is seized, the youth shall be given written notice of the seizure. State Form 36030, "Notice of Confiscated Property," shall be used for this purpose. State Form 34078, "Report of Juvenile Conduct," may be completed if applicable. If property which is seized is later determined to be neither contraband nor prohibited property, it shall be returned to the youth or disposed of as directed by the youth. Money that is seized shall not be returned to the youth. Unauthorized money that is seized shall be placed in the Inmate Recreation Fund.

Seized prohibited property, which is not stolen property, shall be handled in accordance with procedures for disposing of property. Once the property has been determined to be prohibited property, the youth shall be given State Form 21682, "Disposition of Offender Personal Property/Correspondence." The youth shall be instructed to indicate the desired disposition of the prohibited property. The youth has up to fifteen (15) days to determine a desired disposition, except for food items as indicated below, and have the property removed from the facility. The youth shall have the option of choosing from the proposed manners of disposition indicated on State Form 21682. If the youth chooses to send the property to someone outside the facility, the youth shall be responsible for the cost of mailing the prohibited property. If the youth does not advise how to dispose of the property within the fifteen (15) days period, the facility shall make the determination. The facility shall be permitted to dispose of the property in any reasonable manner. The youth shall be notified by use of State Form 21682 on the date of which the property was disposed and the manner of the disposition.

If the confiscated property is non-canned food items, the same procedures shall be followed. However, the facility shall not be required to store the item for the fifteen (15) day period. The facility shall ensure that the youth is notified that a non-canned food item (i.e. a food item that is packaged in either paper or plastic) has been confiscated. This notification shall take place within twenty-four (24) hours of the time of the confiscation. The youth shall be advised that they must advise the facility whether the non-canned food item is to be sent out to family or friends or whether the facility is to dispose of it. The youth shall be given seven (7) days from the date the youth is notified of the confiscation to advise the facility as to the desired disposition. If the facility is not notified within seven (7) days of the confiscation, the facility shall dispose of the item(s) in accordance with this policy and administrative procedure. In the case of canned food items, the same procedures shall be followed; however, the youth shall have

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fifteen (15) days from the date that they are notified of the confiscation to advise the facility of the desired disposition. All notifications indicated above shall be made in a timely manner.

If it is determined that any seized property has been stolen, every effort is to be made to return stolen property to its rightful owner. If the rightful owner cannot be identified, the facility shall document all efforts that were taken to locate the owner and, after fifteen (15) days, the facility may dispose of the property in any reasonable manner.

If the seized property is determined to be contraband, the facility shall determine whether criminal charges are to be filed. If so, the facility shall turn the contraband over to the appropriate law enforcement agency. If criminal charges are not to be filed, the facility shall contact the local Indiana State Police Liaison to determine the appropriate manner in which to dispose of the contraband. The facility shall dispose of the contraband in accordance with the instructions of the State Police Liaison. It shall not be necessary to advise the youth of the disposition of contraband.

Property that is seized pending investigation shall be stored in accordance with Section XVI, "Duties and Responsibilities for Evidence," of Policy and Administrative Procedure 00-01-103, "Investigations and Intelligence."

XXI. LIMITS OF PROPERTY (See Operational Procedure):

The facility's operational procedure shall present the amount of property that a youth may possess. Such limits are established consistent with the following considerations:

1. Maintenance of security;
2. Ensuring the health and safety of staff and youth;
3. Promotion of administrative manageability;
4. Sanitation of the facility;
5. Statutory and judicial mandates; and,
6. Availability of fiscal and staff resources.

XXII. STORAGE OF YOUTH PROPERTY (See Operational Procedure):

Youth shall be required to keep all property within their living areas as directed by the facility's operational procedure. All property must fit in these areas. If property does not fit in these areas it shall be considered excess personal property and shall be subject to confiscation or disposal in accordance with this policy and administrative procedure with the exception of the following items:

1. Hygiene items;

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2. Eyeglasses;
3. Dentures;
4. Prosthetic devices;
5. One (1) Towel;
6. One (1) washcloth;
7. Approved Laundry bag;
8. Soiled clothing items inside the laundry bag;
9. Footwear, and,
10. Any other item approved by the Warden.

XXIII. RELIGIOUS ITEMS:

Religious items/property shall be processed and handled in the manner prescribed in the attachment to Policy and Administrative Procedure 01-03-101, "Religious Services," titled Religious Property Guidelines."

XXIV. COMMISSARY ITEMS:

The facility shall develop a list of items which youth may purchase. This list of available items shall be developed in accordance with Policy and Administrative Procedure 02-01-108, "The Establishment and Operation of Commissaries." Youth are not assigned to the Intake Unit long enough to order commissary. Hygiene items are provided to Intake youth throughout their stay.

XXV. YOUTH LEGAL MATERIALS:

A youth may keep correspondence and legal materials in the assigned locker. However, at the request of the youth, the facility may issue a correspondence storage box to a youth. This storage box may be a plastic storage container or cardboard records storage box. Only correspondence and legal materials may be kept in a correspondence storage box.

The same procedure shall be followed for the issuance and maintenance of the correspondence storage boxes as for personal property storage boxes. With the exception that correspondence storage boxes shall be issued only upon the request of the youth and at the discretion of the Warden.

Youth who have excess legal materials that cannot fit into the youth's correspondence storage box or assigned locker storage box shall have the excess legal materials stored and maintained in a secure area designated by the Warden. The youth and an employee shall inventory and pack legal materials in the additional storage boxes. Cardboard boxes will be used to store the additional legal material that is not kept in the youth's living area. The youth shall sign a receipt for the additional storage box(es). A copy of the receipt shall be placed in the box in the

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presence of the employee and the youth. A copy of this inventory shall be maintained by the employee in charge of the storage area and a copy shall be given to the youth.

Once the inventory is complete, the box(es) shall be sealed and marked with the youth’s name and DOC number. The box(es) shall be identified as “Excess Legal Material”.

In order to gain access to this material, the youth shall be required to submit a written request to the employee in charge of the storage area. The youth is to give this notice seven (7) days prior to the desired review date. In those cases where the youth has a verified court date or deadline or a statute of limitations deadline, the youth shall note such on the request and the facility shall make every effort to provide the requested access within twenty-four (24) hours of when the request was received. The youth shall be allowed to access any excess legal materials with the following conditions:

1. The youth shall retrieve and return to his living area with no more material than will fit into the correspondence and / or personal property box in their living area.
2. Unless the youth has a verified court, statutory or statute of limitations deadline, or other verified emergency, the youth shall be allowed access to the excess legal materials no more than once per week.

Whenever a youth is granted access to the excess legal materials, staff assisting in the access shall document such. This documentation shall include the youth’s name, DOC number, the date of the request for access, the date of the approval or denial of access and if denied, the reason for the denial. In addition, the inventory of the excess legal materials shall be updated each time the youth accesses this material. The staff person shall ensure that any material that is added to or removed from the excess legal materials is inventoried and copies provided as indicated previously.

XXVI. DISPOSITION OF A DECEASED YOUTH'S PERSONAL PROPERTY:

Should a confined youth die, a request for entitlement of the youth’s property may be made forty-five (45) days after the date which the youth dies. In computing the forty-five (45) day period, the day the youth dies is not to be counted, and the forty-fifth day is the last day of the waiting period. This means that the forty-sixth day after a youth’s death is the first day an affidavit for entitlement can be executed by the person requesting the property. However, if the forty-sixth day falls on a Saturday, Sunday, or holiday, then the next business day is the first day that such an affidavit for entitlement can be executed. State Form 41973, “Affidavit of Entitlement to Property,” may be executed at the facility or before a proper notary public. This form is to be accepted from a person requesting property only if:

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1. Forty-five (45) days have elapsed since the death of the youth as determined in accordance with above; and,
2. The value of the youth’s property held by the Department is less than twenty-five thousand dollars (\$25,000.00). (If the value of the youth’s property is more than \$25,000.00, the facility is to contact the Department’s Legal Services Division for instructions on the proper method of handling the property.)

Upon submission of a properly executed State Form 41973, the personal property shall be released to the claimant. When more than one (1) claimant requests entitlement, the Office of the Deputy Commissioner of Administration and Finance shall be contacted. Person(s) requesting entitlement to a deceased youth’s property and presenting “letters testamentary” indicating that an estate has been opened shall be granted a waiver of the forty-five (45) day waiting period. The youth’s property shall be released to that person immediately provided:

1. The authenticity of the “letters testamentary” can be reasonably established (“letters testamentary” do not have to be certified);
2. The identity of the person requesting the deceased youth’s property can be reasonably established as the person named in the “letters testamentary;” and,
3. A copy of the “letters testamentary” is kept by the Department.

The forty-five (45) day waiting period is established as a minimum. In the event that no claims are made in (45) days, the facility shall attempt to contact the youth’s emergency notification person. The youth’s property may be disposed of in the same manner as prohibited property. The disposal of the property shall occur no sooner than ninety (90) days after the youth’s death. The facility shall record all efforts taken and file this information in the youth’s packet.

XXVII.DISPOSITION OF A DECEASED YOUTH’S MONIES:

Should a confined youth die, all monies in the youth’s Inmate Trust Fund shall be frozen. The youth’s monies in the Inmate Trust Fund shall be held for forty-five (45) days. After that time, the youth’s lawful heirs or devisee shall be entitled to these funds. The youth’s lawful heirs or devisee shall be required to complete State Form 41973, “Affidavit of Entitlement to Property.”

When a deceased youth’s money is to be released to an executor, or an administrator of the estate, the check is to be made to: “(claimant’s name), administrator or executor of the estate of (decedent).” A receipt of any other property shall be given to the Department by the administrator or executor.

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If the youth’s lawful heirs or devisee are unknown, the facility shall hold the monies in the youth’s Inmate Trust Fund Account for a period of two (2) years from the date of the youth’s death. Should no valid claim be made during the two (2) year period, the facility shall transfer those funds to the clerk of the court of the committing county. This transfer shall occur no sooner than December 31 of the second year following the death of the youth. The facility shall deduct any debt owed the State of Indiana from the youth’s Inmate Trust Account before sending the unclaimed monies to the clerk of the court.

XXVIII. DISPOSITION OF AN ESCAPED YOUTH’S PERSONAL PROPERTY:

The Department shall collect all of the personal property left by an escaped youth. This property shall be inventoried and held in a secure location. The personal property of the youth shall not be given to friends or family. The facility shall hold this property for a period of sixty (60) days from the date of escape, after which it becomes prohibited property and is to be disposed of accordingly.

The facility shall stop any actions taken to dispose of an escaped youth’s property and hold it for the youth, if the escaped youth is apprehended before the sixty (60) day period expires. The facility shall keep a written record of the actions taken in the disposal/return of this property.

XXIX. DISPOSITION OF AN ESCAPED YOUTH’S MONIES:

The Department shall freeze any monies held in the Inmate Trust Fund Account for an escaped youth. These monies shall be held by the facility for two (2) years from the date of the escape.

After two (2) years, the Department shall transfer these monies to the clerk of the court of the committing county. The Department shall transfer these monies no earlier than December 31 of the second year following the date of the escape.

If a youth is apprehended prior to this transfer, these monies shall be transferred to the youth’s Inmate Trust Fund Account at the facility housing the youth. Any monies owed to the State of Indiana or the Department shall be withdrawn prior to the transfer. The facility shall keep a written record of all actions taken involving an escaped youth’s monies. In addition to the normal bookkeeping record, a written record shall be placed in the youth’s packet.

XXX. GRIEVANCES:

A youth may challenge any action relevant to property or the disposition of any property through the Grievance Process as found in Policy and Administrative Procedure 03-02-105, “The Youth Grievance Process.”

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In those cases where a youth alleges that personal property was lost due to inappropriate actions by staff of the facility and the youth is seeking compensation for the loss, the youth shall complete State Form 46808, "Notice of Loss of Property-Tort Claim," rather than the Youth Grievance Process. This loss must be alleged to have occurred during the youth's confinement and was as a result of an act or omission of the facility, its agents, former officers, employees, or contractors. The youth is required to file this claim no later than 180 days after the date of the alleged loss. The youth shall use State Form 46808 and forward this claim to the Department's Tort Claim Administrator in the Department's Division of Legal Services. See State Form 46808 for the procedures to be followed for filling and processing a Tort Claim.

XXXI. APPLICABILITY:

This policy and administrative procedure is applicable to all Division of Youth Services facilities, staff, and youth.

signature on file
Robert E. Carter, Jr.
Commissioner

Date