

TITLE 210 DEPARTMENT OF CORRECTION

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Implementation of Interstate Compact on Juveniles

210 IAC 1-1-1 Purpose of rules and regulations; meaning of words and phrases

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 1. The purpose of these rules and regulations [210 IAC 1-1] is to implement the Interstate Compact on Juveniles to the end that uniformity of procedures may be established by the party states. All words and phrases as used in these rules and regulations [210 IAC 1-1] shall have the same meanings as in the compact except where the context clearly requires a different interpretation. (*Department of Correction; Preamble; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 40; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-1-2 Representation of state under compact; coordinate jurisdictions

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 2. Wherever practicable a single state agency shall represent the state in dealing with other states under the compact and all correspondence and communications relating to matters arising under the compact and under these rules and regulations [210 IAC 1-1] shall be conducted with such agencies. Where there are several agencies having coordinate jurisdiction, respective agencies shall work out such methods of intercommunication and procedure as may be appropriate and convenient. (*Department of Correction; Sec 1; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 40; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-1-3 Forms; adoption by compact administrator

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 3. The Compact Administrator may adopt the forms utilized by the Interstate Compact on Juveniles. (*Department of Correction; Sec 2; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 40; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-1-4 Progress reports by receiving state

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 4. The receiving state shall furnish the sending state with such progress reports and other information concerning juveniles being supervised on parole or probation pursuant to the compact as the sending state may, from time to time, require. The receiving state may also forward such additional information as, in its judgment, is necessary and desirable. (*Department of Correction; Sec 3; filed May 13, 1958, 2:20 pm; Rules and Regs. 1959, p. 40; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-1-5 Supervision standards and disciplinary treatment of receiving state apply; visits outside receiving state

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 31-6-10

Sec. 5. The same standards of supervision as apply in the receiving state in the supervision of its own juvenile parolees and probationers shall apply to out-of-state juvenile parolees and probationers sent there under the terms of the compact and such out-of-state parolees and probationers shall, as far as practicable, in all respects be subject to the same disciplinary treatment as the receiving state applies to its own juvenile parolees and probationers. In appropriate cases, the receiving state is authorized to grant to the

juvenile parolee or probationer permission to make temporary visits out of the receiving state. (*Department of Correction; Sec 4; filed May 13, 1958, 2:20 pm: Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-1-6 Schools or institutions of receiving state; supervisory duties

Authority: IC 11-8-2-5; IC 11-8-2-10
 Affected: IC 31-6-10

Sec. 6. Any juvenile parolee or probationer sent to an approved or accredited suitable private school or other institution in the receiving state may be supervised by the authorities of said school or institution and in such event, the receiving state shall be deemed to meet its obligations under the compact if it takes reasonable steps to keep itself informed concerning the suitability of the school or institution and, upon request of the sending state, renders such assistance as may be necessary in securing and maintaining appropriate contact with and cooperation from the school or institution. (*Department of Correction; Sec 5; filed May 13, 1958, 2:20 pm: Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-1-7 Report of parole or probation violations; return of juvenile

Authority: IC 11-8-2-5; IC 11-8-2-10
 Affected: IC 31-6-10

Sec. 7. The receiving state shall promptly upon a parole or probation violation notify the sending state. Such reports should specify in detail the violation, and if a crime or act of juvenile delinquency has been committed, shall, wherever possible, give both the official and juvenile's version of the act. Wherever practicable, it should be accompanied by a recommendation of the receiving state. In returning any juvenile, the receiving state shall cooperate with the sending state pursuant to statute. (*Department of Correction; Sec 6; filed May 13, 1958, 2:20 pm: Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-1-8 Discharge of juvenile; report and recommendations by receiving state; early discharge

Authority: IC 11-8-2-5; IC 11-8-2-10
 Affected: IC 31-6-10

Sec. 8. Upon request of the sending state for a progress report with recommendation prior to consideration of the case for discharge, the receiving state shall prepare and transmit such report. In cases where there has been a discharge from parole or probation or a change in the status of the parolee or probationer, the sending state shall forthwith notify the receiving state of such change. However the sending state shall not discharge any juvenile parolee or probationer before the expiration of the maximum time permissible for supervision pursuant to the adjudication of delinquency unless the receiving state shall agree to such earlier discharge. (*Department of Correction; Sec 7; filed May 13, 1958, 2:20 pm: Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-1-9 Uniform rules and regulations adopted by reference

Authority: IC 11-8-2-5; IC 11-8-2-10
 Affected: IC 31-6-10

Sec. 9. The Uniform Rules and Regulations as adopted by Compact Administrators are hereby adopted by reference. (*Department of Correction; Sec 8; filed May 13, 1958, 2:20 pm: Rules and Regs. 1959, p. 41; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

Rule 2. Work Release Program (Repealed)

(*Repealed by the Department of Correction; filed Oct 1, 1987, 4:00 pm: 11 IR 566*)

Rule 3. Work Release-Study Release Inmate Furloughs (Repealed)

(Repealed by the Department of Correction; filed Oct 1, 1987, 4:00 pm: 11 IR 566)

Rule 4. Transfer of Inmate to Mental Hospital for Psychiatric Care

210 IAC 1-4-1 Mental examination of inmate; report by psychiatrist

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 1. Any psychiatrist, employed by the Department of Correction, after examining an inmate of a correctional/penal institution, shall make a detailed report of the examination to the Commissioner of the Department of Correction or his designee. *(Department of Correction; Psychiatric Transfers Rule 1; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)*

210 IAC 1-4-2 Contents of psychiatrist's report

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 2. The psychiatrist's report shall include:
(a) The diagnosis arrived at by the psychiatrist;
(b) the signs, symptoms, and conditions on which the diagnosis is based;
(c) a complete history of the inmate, as far as it is obtainable; and,
(d) the psychiatrist's recommendation for disposition.

(Department of Correction; Psychiatric Transfers Rule 2; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)

210 IAC 1-4-3 Need for care and treatment; determination by commissioner

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 3. The Commissioner of the Department of Correction or his designee, after receipt of the psychiatrist's report, shall make an administrative determination based upon the need of the inmate for care and treatment in a mental hospital. *(Department of Correction; Psychiatric Transfers Rule 3; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)*

210 IAC 1-4-4 Transfer order; inmate's right to hearing

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 4. If the Commissioner of the Department of Correction or his designee determines that the inmate is in need of psychiatric care and treatment, he shall order that the transfer be made and fully advise the inmate in writing of his right to a pre-transfer hearing in order to determine the need for the transfer. *(Department of Correction; Psychiatric Transfers Rule 4; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)*

210 IAC 1-4-5 Appointment of pre-transfer hearing officer

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 5. A hearing officer will be appointed for each pre-transfer hearing by the Commissioner of the Department of Correction. *(Department of Correction; Psychiatric Transfers Rule 5; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)*

210 IAC 1-4-6 Written request for pre-transfer hearing; time limit

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 6. The inmate shall have a period of five days in which to request in writing that the pre-transfer hearing be held. This should be sent to the Commissioner of the Department of Correction or his designee. (*Department of Correction; Psychiatric Transfers Rule 6; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-7 Initiation of transfer proceeding when no request for hearing

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 7. If no request in writing is received for a pre-transfer hearing within the five-day limitation, the Commissioner of the Department of Correction or his designee shall initiate the transfer proceedings. (*Department of Correction; Psychiatric Transfers Rule 7; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-8 Standards for pre-transfer hearing

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 8. If the Commissioner of the Department of Correction or his designee receives the written request for a pre-transfer hearing, the following minimum standards will be followed:

- (a) Notice shall be given to the inmate informing him/her of time, place, and reason for the hearing at least seven days prior to the hearing, and must be given in both written and verbal form;
- (b) a copy of the psychiatrist's report, with a recommendation for transfer, shall be given to the inmate at the time the notice of hearing is given;
- (c) the inmate shall have the right to appear in person in order to present evidence and to cross-examine witnesses. He/she may be represented by counsel or other personal representation;
- (d) a written decision must be impartially reached upon the evidence presented at the hearing, and stating the evidence relied upon in reaching that decision;
- (e) one copy of the written decision and the hearing proceedings shall be retained in the inmate's packet.

(*Department of Correction; Psychiatric Transfers Rule 8; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 226; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-9 Waiver of pre-transfer hearing

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 9. If the inmate agrees that he/she is in need of care and treatment at a mental hospital, he/she may sign a waiver of personal rights for this instance only. In the case of a juvenile, this waiver may be signed by the parents or legal guardian, in which case the transfer proceedings may be initiated. (*Department of Correction; Psychiatric Transfers Rule 9; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-10 Notice of hearing officer's recommendation

Authority: IC 11-8-2-5; IC 11-8-2-10
Affected: IC 11-10-4

Sec. 10. If, after the hearing, the hearing officer determines that the inmate is in need of care and treatment in a mental hospital,

he shall notify the Commissioner of the Department of Correction or his designee, who shall then initiate the transfer proceedings. (*Department of Correction; Psychiatric Transfers Rule 10; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-11 Notice and report of transfer to mental health commissioner

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 11. If it has been determined that a transfer is necessary, the Commissioner of the Department of Correction or his designee shall notify the Commissioner of the Department of Mental Health or his designee of that fact, and shall then submit to the Commissioner of the Department of Mental Health or his designee a detailed report of the case. (*Department of Correction; Psychiatric Transfers Rule 11; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-12 Contents of transfer report

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 12. The report shall include copies of:

- (a) The psychiatric evaluation;
- (b) the findings of the administrative determination;
- (c) the findings of the pre-transfer hearing, if one was held;
- (d) the waiver of personal rights, if one was signed;
- (e) a dated notification of the inmate's right to a pre-transfer hearing;
- (f) a notarized statement by the Commissioner of the Department of Correction or his designee of failure to ask for pre-transfer hearing in writing with the five-day limitation, if this is the case.

(*Department of Correction; Psychiatric Transfers Rule 12; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-13 Authorization for acceptance of inmates

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 13. After reviewing the report and/or examining the inmate, the Commissioner of the Department of Mental Health or his designee may prepare an authorization for the acceptance of the inmate by the Superintendent of a mental hospital. (*Department of Correction; Psychiatric Transfers Rule 13; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 227; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-14 Required institution for transfer; exceptions

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 14. All transfers are to be made to the Maximum Security Division at Dr. Norman M. Beatty Memorial Hospital, except that when considered necessary for treatment, the Commissioner of the Department of Mental Health or his designee may authorize transfer to a mental hospital rendering necessary treatment. (*Department of Correction; Psychiatric Transfers Rule 14; filed Aug 23, 1974, 3:31 pm; Rules and Regs. 1975, p. 228; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-15 Immediate transfers; declaration of emergency

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 15. When, in the opinion of the Commissioner of the Department of Correction or his designee and the psychiatrist doing the evaluation, immediate transfer is necessary for the welfare of the inmate, the Commissioner of the Department of Correction or his designee may declare that an emergency exists. (*Department of Correction; Psychiatric Transfers Rule 15; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 228; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-4-16 Initiation of emergency transfer; temporary acceptance of inmate

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-4

Sec. 16. If an emergency is declared, the Commissioner of the Department of Correction or his designee may initiate the transfer by the quickest possible means, and the Commissioner of the Department of Mental Health may accept the inmate on a temporary basis with the understanding that the Department of Mental Health will hold the pre-transfer hearing and all other necessary proceedings, if the Department of Mental Health agrees that an emergency situation exists. (*Department of Correction; Psychiatric Transfers Rule 16; filed Aug 23, 1974, 3:31 pm: Rules and Regs. 1975, p. 228; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

Rule 5. Temporary Leaves for Inmates

210 IAC 1-5-1 Temporary leaves; purpose and conditions

Authority: IC 11-8-2-5; IC 11-8-2-10

Affected: IC 11-10-9-2

Sec. 1. (1) As per House Enrolled Act 1189, which became Public Law 103 [*Codified as IC 11-7-9-10.5. Repealed by P.L.120-1979, SECTION 22. See, IC 11-10-9-2 concerning temporary releases.*] on July 1, 1973, inmates incarcerated in Indiana Department of Correction Facilities may be granted temporary leave for the purposes of:

- (a) to visit a spouse, child (including a stepchild or adopted child), parent (including a stepparent or foster parent), grandparent (including stepgrandparent) or brother or sister who is seriously ill or to attend the funeral of any such person; or
- (b) to obtain medical, psychiatric or psychological services when adequate services are not otherwise available; or
- (c) to make contacts for employment; or
- (d) to secure a residence upon release on parole or discharge; or
- (e) to visit such person's family; or
- (f) to appear before various educational panels, study groups, educational units, and other groups whose purpose is obtaining an understanding of the results, causes and prevention of crime and criminality, including appearances on television and radio programs; Provided, that such appearances shall be subject to the specific approval of the warden, or the superintendent of the institution, or the work release director, all under the direction of the commissioner.

The following are the conditions under which inmates may temporarily leave a facility of the Department of Correction:

(2) Temporary leaves shall be approved by the Chief Administrative Officer of the place of confinement or such person or committee as he shall designate.

(3) Any inmate being granted leave shall be subject to security requirements of each particular institution for each inmate.

(4) In determining the eligibility for temporary leave the Chief Administrative Officer of the place of confinement of any inmate applying for such temporary leave shall consider, but not be limited to, the following:

- (a) the individual's instant crime;
- (b) criminal history involving the death or personal injury of the victim;
- (c) history of escapes from lawful confinement;
- (d) history of illegal sexual acts;
- (e) poor institutional conduct.

(5) Temporary leave may be granted only for prescribed areas within the boundaries of the State of Indiana. Any inmate shall remain within the geographical limit designated for his or her individual leave.

(6) The length of any temporary leave authorized shall be for the minimum time necessary to accomplish the specific purpose for which the leave is authorized, provided that no leave shall exceed three (3) days (Seventy-two 72 hours).

- (7) Inmates shall not be eligible to receive more than two temporary leaves in any six months period except;
- (a) for leaves under Rule 1a and 1b [subsections (1)(a) and (1)(b) of this section];
- (1) "Seriously ill" as stated in Rule 1a [subsection (1)(a) of this section] is defined as terminal illness or critical illness as verified by a licensed physician;
- (b) inmates approved for work release assignment to make contact for employment;
- (c) leaves under Rule 1c, 1d, and 1e [subsections (1)(c)–(1)(e) of this section] within 60 days of inmate's eligible release date.
- (1) "Eligible Release Date" is defined as discharge date or parole release date as set by the Parole Board.
- (8) Leaves under Rule 1c, 1d, and 1e [subsections (1)(c)–(1)(e) of this section] shall be granted only within 60 days of the inmate's eligible release date; provided, however, that an inmate approved for work release assignments may be granted a leave to make contacts for employment.
- (9) Temporary leave to obtain medical, psychiatric or psychological services when adequate services are not otherwise available will be granted only after the institutional Medical Director, Psychologist or Consulting Psychiatrist confirms in writing that the leave is essential.
- (10) After considering the special request of each individual inmate applying for temporary leave, the Chief Administrative Officer of the place of confinement may require:
- (a) any inmate to be escorted by a Department of Correction employee for any part of or duration of the temporary leave;
- (b) that the inmate shall comply with any extra security precaution determined by and within the discretion of said Chief Administrative Officer;
- (c) any applying inmate to have an approved member of the inmate's family or other person as an escort.
- (11) The Chief Administrative Officer of the place of confinement may authorize an inmate to have a temporary leave without an escort.
- (12) All inmates on temporary leave are subject to all State and Federal laws.
- (13) The violation of any law or any part of the policy governing temporary leave by any inmate on temporary leave shall subject that inmate to:
- (a) penalties attached to any such law violation;
- (b) forfeiture of the privilege for participation in the Temporary Leave Program;
- (c) any further restrictions or change in classification warranted.
- (14) Inmates shall accept the responsibility for returning to their place of confinement within the specified time limits of their individual leaves.
- (15) The use, possession, or securing of alcoholic beverages, or any other drug or intoxicant by inmates on temporary leave is strictly forbidden except as prescribed by a licensed physician.
- (16) Inmates on temporary leave shall not operate any motor vehicle.
- (17) Inmates on temporary leave shall use public transportation or such transportation as is approved by the Chief Administrative Officer of the place of confinement. Such approved transportation shall be in the form of auto or truck.
- (18) Should advice or assistance be needed while on temporary leave the inmate shall call his or her place of confinement or center, the local parole officer, the Department of Correction, the local sheriff or police department.
- (19) Should any inmate be involved in an accident or other situations which might prevent his or her return from leave within the specific time limits, that inmate or other persons shall immediately or as soon as possible call his or her place of confinement or Center or the Department of Correction and then turn himself over to the local parole officer or sheriff.
- (20) Any inmate on temporary leave shall at all times carry on his or her person identification provided by the place of confinement.
- (21) Upon returning to the place of confinement from a temporary leave the inmate shall not be authorized to retain any personal property which he did not possess prior to going on the temporary leave. (*Department of Correction; Temporary Leaves Rule 1-21; filed May 22, 1974, 8:40 am; Rules and Regs. 1975, p. 229; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

Rule 6. Collection, Maintenance, and Release of Offender and Juvenile Records

210 IAC 1-6-1 Definitions

Authority: IC 11-8-5-2

Affected: IC 4-1-6; IC 11-8-5-1

Sec. 1. The following definitions apply throughout this article:

- (1) "Department" means the department of correction.
- (2) "Juvenile" means a person who is adjudged delinquent by a juvenile court and committed to and under the legal control of the department.
- (3) "Offender" means an adult committed to and under the legal control of the department for committing a criminal offense.
- (4) "Official record" means the record prepared and maintained by the department for each offender and juvenile received into the physical care and custody of the department. The record shall include, but is not limited to, written, printed, or electronic materials, documents, or data pertaining to services, programs, and all other official actions performed on behalf of that offender or juvenile. These records are identified by the same offender or juvenile name as received on the commitment order, assigned a department number as an identifier, and compiled and maintained as part of an offender/juvenile packet.

(Department of Correction; Offender Records, Art I; filed Jul 30, 1979, 2:25 pm: 2 IR 1199; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3538; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA)

210 IAC 1-6-2 Classification of information

Authority: IC 11-8-5-2

Affected: IC 11-8-5-2

Sec. 2. The department shall collect, maintain, and use only that offender or juvenile personal information that is relevant and necessary to accomplish the statutory purposes of the agency. All offender or juvenile information collected and retained by the department shall be classified in the following manner:

- (1) Unrestricted information shall include only information pertaining to an offender that is considered by law to be public information. Certain information normally considered restricted or confidential may be considered unrestricted information if there is a compelling public interest in disclosure. Unrestricted information is accessible by any person upon specific request, with the exception of offenders to whom the information does not pertain or any juvenile.
- (2) Restricted information shall include, but is not limited, to the following:
 - (A) Education, medical, sex offender, substance abuse, disciplinary, criminal, and employment records.
 - (B) Finger and voice prints.
 - (C) Photographs.
 - (D) Institutional summaries.
 - (E) Psychiatric and psychological reports.
 - (F) Social history reports.
 - (G) Progress reports.
 - (H) Educational and vocational reports.
- (3) Confidential information shall include, but is not limited to, the following:
 - (A) Offender diagnostic/classification reports.
 - (B) Criminal intelligence information.
 - (C) Information that, if disclosed, might result in physical harm to that person or other persons.
 - (D) Information obtained upon promise of confidentiality.
 - (E) Internal investigation information.
 - (F) All juvenile records.
 - (G) Any other information required by law or promulgated rule to be maintained as confidential.
- (4) All offender information obtained from other agencies, organizations, or sources shall be held to the same degree of confidentiality as that designated by the generating source.

(Department of Correction; Offender Records, Art II; filed Jul 30, 1979, 2:25 pm: 2 IR 1199; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3539; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA)

210 IAC 1-6-3 Segregation and identification of information (Repealed)

Sec. 3. *(Repealed by Department of Correction; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3550)*

210 IAC 1-6-4 Inspection rights of offenders and juveniles

Authority: IC 11-8-5-2

Affected: IC 4-1-6-3; IC 4-1-6-8

Sec. 4. (a) An offender or a person designated in writing by an offender as his or her agent may inspect those portions of the offender's own official record classified as unrestricted and restricted consistent with the following:

(1) The requestor shall provide a valid picture identification and a signed authorization from the appropriate offender identifying the person acting as his or her agent and specifying the documents to be released to the agent.

(2) A person committed to or under the legal control of the department or on probation to a court may not act as an offender's agent. If doubt exists as to the identity of the offender's agent or the validity of the release, the offender shall be contacted for verification when possible.

(3) The cost of copying records under this section shall be assessed to the requestor and shall be consistent with approved schedules.

(4) If the offender's signed authorization is not on file with the facility or is not presented upon making the request, the requestor shall be advised that he or she may obtain such consent from the offender or file a formal request for access to records with the department.

(5) The requestor shall be advised in the event the request is denied to direct his or her appeal to the deputy commissioner of adult operations, who shall notify the requestor of his or her decision within thirty (30) days. If the deputy commissioner disapproves the request, an appeal may be taken within thirty (30) days to the commissioner of the department who shall review the request and notify the requestor of his or her decision within thirty (30) days.

(b) Release of juvenile records shall comply with the following:

(1) A juvenile may not access his or her own records or the records of other juveniles or offenders.

(2) Juvenile records may be released to a parent or legal guardian upon specific written request unless the release of such record or records is contrary to the health, welfare, or safety of the juvenile or others.

(3) A parent or legal guardian committed to or under the legal control of the department or on probation to a court may not access a juvenile's record. If doubt exists as to the identity of the juvenile's parent or legal guardian or the validity of the request, the juvenile and his or her parent or legal guardian shall be contacted for verification.

(4) The cost of copying records under this section shall be assessed to the requestor and shall be consistent with approved schedules.

(5) In the event a request for access to records is denied, the requestor shall be advised to direct his or her appeal to the deputy commissioner of juvenile services who shall notify the requestor of his or her decision within thirty (30) days. If the deputy commissioner disapproves the request, an appeal may be taken within thirty (30) days to the commissioner of the department who shall review the request and notify the requestor of his or her decision within thirty (30) days.

(Department of Correction; Offender Records, Art IV; filed Jul 30, 1979, 2:25 pm: 2 IR 1200; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3539; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA)

210 IAC 1-6-5 Challenge of information by offender; investigation; change of record

Authority: IC 11-8-5-2

Affected: IC 4-1-6-5

Sec. 5. An offender may challenge, correct, or explain information contained within his or her record in accordance with IC 4-1-6-5. *(Department of Correction; Offender Records, Art V; filed Jul 30, 1979, 2:25 pm: 2 IR 1200; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3540; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA)*

210 IAC 1-6-6 Access to information

Authority: IC 11-8-5-2

Affected: IC 4-1-6-8; IC 4-1-6-8.6

Sec. 6. (a) Courts and personnel authorized by a court shall have access to offender and juvenile records consistent with the following:

(1) All court orders pertaining to offender and juvenile records shall cause such records to be copied or released by the records supervisor immediately pursuant to the terms of the court order and the following:

(A) The record repository shall reflect in a manner prescribed by the department the whereabouts of records so removed and when they were removed and the name of the employee authorizing the transfer of the record from the department to the court.

(B) No offender or juvenile record or documents contained therein shall be altered or omitted prior to or during the transmittal of the official record to the court.

(2) If access to an offender's or juvenile's record was granted under compulsory legal process other than that initiated by the offender or juvenile, reasonable effort shall be made to notify the offender or juvenile prior to release of the information.

(b) An attorney representing an offender, juvenile, or a juvenile's parent or legal guardian may have access to a client's records consistent with the following procedures:

(1) If the attorney is requesting a review and copies of the official record, then the attorney shall be charged for the cost of reproductions consistent with approved schedules.

(2) The attorney may have access to unrestricted and restricted information in the offender's record to the same extent as the offender. An attorney representing a juvenile or the parent or legal guardian of a juvenile shall have access to any information in the juvenile's official record unless release of such information is contrary to the health, welfare, or safety of the juvenile.

(3) Access by an attorney to confidential records in the offender's official record shall be accompanied by a court order specifying the documents to be released.

(c) Release to a person or agency providing a lawful service on behalf of the department, or related to or on behalf of an offender or juvenile in response to a written request, shall be limited to those documents related to the service performed and shall include confidential and restricted information consistent with this rule or as otherwise permitted by law, including the following:

(1) Upon release of such information or the providing of duplicate copies, the material shall be clearly marked as to how the information is classified.

(2) A record shall be made by the records supervisor of all such inspections noting the following:

(A) The requestor's name, agency, or function represented.

(B) The purpose of the request.

(C) The date access was granted.

(D) The name of the person granting access.

This record shall be then made a part of the offender's record.

(3) Such access shall be limited to law enforcement agencies performing a criminal investigation or agencies providing a lawful service to the department or offender or juvenile wherein the direct benefit to the offender or juvenile is clearly indicated.

(d) Unless otherwise previously specified in this rule, release of offender records shall be restricted to information classified as unrestricted unless there is a compelling public interest in releasing specific portions of the material classified restricted or confidential. Such a request shall be immediately forwarded to the division or facility head responsible for keeping these records for the final decision to release information so classified. A written notice of such a release shall be incorporated into the offender's or juvenile's record in the same manner prescribed in the prior section.

(e) All authorized department personnel or contract personnel who have an official interest in an offender's or juvenile's records as a consequence of statutory functions or department responsibilities, delegated or otherwise, shall have appropriate access to offender and juvenile records. (*Department of Correction; Offender Records, Art VI; filed Jul 30, 1979, 2:25 pm: 2 IR 1201; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3541; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA*)

210 IAC 1-6-7 Research purposes; request for access to information

Authority: IC 11-8-5-2

Affected: IC 4-1-6-8.6

Sec. 7. All requests for access to offender or juvenile records for research purposes shall be made to the director of planning services in written form. Such requests shall include the name of the agency or organization performing the research, the names of the persons directly responsible for the following:

(1) Conducting such research.

- (2) The purpose of such research.
- (3) How the research is to be performed.
- (4) What measures will be taken to assure the proper protection of classified information.

Approval of such requests will then be granted or denied consistent with provisions of IC 4-1-6-8.6 and department procedures. *(Department of Correction; Offender Records, Art VII; filed Jul 30, 1979, 2:25 pm: 2 IR 1202; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA)*

Rule 7. Minimum Security Assignment (Repealed)

(Repealed by Indiana Department of Correction; filed Oct 8, 1981, 10:45 am: 4 IR 2224)

Rule 8. General Visiting Guidelines for Death Row Inmates

210 IAC 1-8-1 Authorized visitors

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 1. The convicted person may receive visits from his/her:

- (1) Attorney
- (2) Physician
- (3) Relatives
- (4) Friends
- (5) Spiritual Advisor

(Department of Correction; 210 IAC 1-8-1; filed Jul 20, 1987, 10:00 am: 10 IR 2643; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)

210 IAC 1-8-2 Visitation list

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 2. Indiana state prison and Indiana women's prison shall maintain an approved visitation list for each offender awaiting execution. The visitation list will be updated at least twice a year in a manner convenient to the operation of the institution. Offenders may request visitation from any person provided the request is consistent with all pertinent operational procedures and this rule (210 IAC 1-8). Offenders may request that members of the media be considered for visitation as "friends." All offender visits will be conducted in regular visiting areas and during regular visiting hours. Recording equipment or special equipment is permitted only at the discretion of the superintendent and must be approved prior to the visit to the facility. The visitation list shall include:

- (1) the offender's name and number;
- (2) the name of the requested visitor;
- (3) the address of the visitor;
- (4) the relationship of the visitor to the offender; and,
- (5) the age and sex of the visitor.

(Department of Correction; 210 IAC 1-8-2; filed Jul 20, 1987, 10:00 am: 10 IR 2643; errata, 11 IR 96; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)

210 IAC 1-8-3 Operational procedures for updating and maintaining visiting list

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 3. The facility head or designee shall develop operational procedures which outline the method offenders may use to request a visitor's name be placed on or removed from the visiting list, the specific staff person responsible for updating and maintaining the visiting list, the location and/or distribution of the visiting list, and the manner in which the offender and visitor are made aware of:

- (1) the visitation days and hours;
- (2) the visitation restrictions, including number of authorized visits;
- (3) the necessity for visitor to provide staff with adequate identification;
- (4) the visitors' dress requirement (i.e. visitors shall wear clothing that reflects the acceptable standards of society and which present no threat to the security, custody or maintenance of order at the institution).

State Form _____ "Offender Visitation List" shall be used for the purpose of listing the approved visitors for each offender. *(Department of Correction; 210 IAC 1-8-3; filed Jul 20, 1987, 10:00 am: 10 IR 2643; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)*

210 IAC 1-8-4 Attorney visits

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 4. Visits by the convicted person's attorney may occur as necessary during normal business hours of the institution. Exceptions to the usual hours of visits will be made on the approval of the institution head or his/her designee. Provisions will be made by the institution head to insure the visit observes attorney-client confidentiality while maintaining necessary security. *(Department of Correction; 210 IAC 1-8-4; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)*

210 IAC 1-8-5 Physician visits

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 5. Visits by the convicted person's physician will occur when necessary to the convicted person's health. *(Department of Correction; 210 IAC 1-8-5; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)*

210 IAC 1-8-6 Immediate relative visits

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 6. Immediate relatives (parents, guardians, spouse, children, grandparents, grandchildren) are encouraged to visit with the convicted offender consistent with restrictions imposed by the visiting environment of institution and security considerations. The Indiana state prison and Indiana women's prison shall establish reasonable guidelines to encourage and facilitate visits by the immediate relatives. *(Department of Correction; 210 IAC 1-8-6; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)*

210 IAC 1-8-7 Other visitors

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 7. (a) Visits by other relatives, by friends, and by spiritual advisors may be permitted upon the approval of the institution head or his/her designee. The frequency of these visits shall be consistent with those established for immediate relatives.

(b) Ex-offenders shall not be permitted to visit the offender without prior approval of the institution head.

(c) Parolees or probationers shall have written authorization from the parole or probation officer prior to being given consideration by the institution head. The institution head shall consider the safety and security of the individuals and the facility as well as the value to the offender when granting approval or denial of the request made by ex-offenders, parolees or probationers to visit offenders. *(Department of Correction; 210 IAC 1-8-7; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA)*

210 IAC 1-8-8 Records

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 8. Indiana state prison and Indiana women's prison shall maintain a record for every offender designating all of the offender's visits. State Form _____, "Records of Offender Visits" shall be used for this purpose. (*Department of Correction; 210 IAC 1-8-8; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-8-9 Visitor inspection

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 9. Visitors shall be restricted as to what they may carry into the visiting area and shall be subject to reasonable inspection of their person and goods prior to entering the visiting area. If visitors refuse to submit to reasonable inspection of person and/or goods, the visit will not be permitted. (*Department of Correction; 210 IAC 1-8-9; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-8-10 Physical contact

Authority: IC 11-8-2-5; IC 35-38-6-4
Affected: IC 35-38-6-4

Sec. 10. Physical contact (embracing and kissing) between the convicted person and his/her visitors will be permitted at the beginning and close of visits. Holding hands during the visit will be permitted. Physical contact may be restricted if required for security reasons. (*Department of Correction; 210 IAC 1-8-10; filed Jul 20, 1987, 10:00 am: 10 IR 2644; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

Rule 9. Literacy Standards for Participation in Minimum Security Release Program

210 IAC 1-9-1 Definitions

Authority: IC 11-8-2-5; IC 11-10-8-3
Affected: IC 11-10-8-3

Sec. 1. The following definitions shall be applicable for the operations of literacy standards and minimum security release.
Minimum Security Release Program: Work release, regulated community assignment, or special assignment to a work release center.

Reading: Includes comprehension and vocabulary.

Writing: Language mechanics.

Handicapped: An offender who, in the judgement of psychological/psychiatric or education staff is potentially learning disabled, mentally or developmentally impaired to the extent that he/she is incapable of achieving minimum literacy competency.

Intake Unit: The department facility which receives the offender for initial classification. For these purposes, the intake units are the reception diagnostic center and Indiana women's prison.

Minimum Literacy Requirement: Competency level determined by the department of correction and the Indiana adult literacy coalition in the areas of reading and writing. (*Department of Correction; 210 IAC 1-9-1; filed Feb 22, 1988, 2:00 pm: 11 IR 2335; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-9-2 Literacy standard requirement

Authority: IC 11-8-2-5; IC 11-10-8-3
Affected: IC 11-10-8-3

Sec. 2. All adult offenders, unless otherwise exempt, are required to demonstrate reading and writing skills that meet minimum

literacy standards to be classified for assignment to a minimum security release program. Minimum literacy standards are determined by the department of correction with the assistance of the Indiana adult literacy coalition. The minimum literacy requirement is equivalent to sixth grade skills in reading and writing. (*Department of Correction; 210 IAC 1-9-2; filed Feb 22, 1988, 2:00 pm: 11 IR 2335; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-9-3 Exceptions to literacy requirement

Authority: IC 11-8-2-5; IC 11-10-8-3
Affected: IC 11-10-8-3

Sec. 3. The literacy standard does not apply to an offender who:

- (1) is unable to meet the minimum literacy standard as a result of a handicap;
- (2) length of sentence prevents the offender from achieving minimum literacy standards before expiration of sentence;
- (3) is approved for or assigned to a minimum security release program prior to September 1, 1987;
- (4) holds a high school diploma, general equivalency diploma, or post-secondary education.

(*Department of Correction; 210 IAC 1-9-3; filed Feb 22, 1988, 2:00 pm: 11 IR 2335; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-9-4 Intake unit literacy competency testing

Authority: IC 11-8-2-5; IC 11-10-8-3
Affected: IC 11-10-8-3

Sec. 4. Literacy testing shall be provided at the intake unit to determine the offender's competency level in reading and writing. If an offender declines to be tested and there is no verified documentation available regarding literacy competency, he/she shall be considered ineligible for minimum security release. An offender may retest 30 days after previous testing. (*Department of Correction; 210 IAC 1-9-4; filed Feb 22, 1988, 2:00 pm: 11 IR 2336; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-9-5 Offender ineligible; notification

Authority: IC 11-8-2-5; IC 11-10-8-3
Affected: IC 11-10-8-3

Sec. 5. If the offender does not have the minimum literacy skills required, he/she shall receive written and verbal notification of such ineligibility and advised what is required to change this classification in the future. (*Department of Correction; 210 IAC 1-9-5; filed Feb 22, 1988, 2:00 pm: 11 IR 2336; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

210 IAC 1-9-6 Literacy requirement; length of sentence

Authority: IC 11-8-2-5; IC 11-10-8-3
Affected: IC 11-10-8-3

Sec. 6. If department of education staff determine that an offender's length of sentence at the point of intake allows for sufficient time to complete the literacy requirement, however the offender delays entering the program until insufficient time for completion remains, or the offender chooses not to participate in the educational program; the offender will remain ineligible for minimum security release. (*Department of Correction; 210 IAC 1-9-6; filed Feb 22, 1988, 2:00 pm: 11 IR 2336; readopted filed Nov 15, 2001, 10:42 a.m.: 25 IR 1269; readopted filed Jul 6, 2007, 2:54 p.m.: 20070725-IR-210070277RFA*)

Rule 10. Offender Tort Claim Process

210 IAC 1-10-1 Personal property tort claims

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 1. (a) This rule applies only to tort claims filed by offenders either currently committed to the department and confined in a department facility or who were committed to and confined in a department facility and who have alleged a loss of personal property due to actions or omissions by the department.

(b) Only those claims where an offender is attempting to recover compensation, either monetary compensation or replacement of property, for the loss of personal property are subject to this rule. This loss must be alleged to have occurred during the offender's confinement as a result of an act or omission of the department or any of its agents, officers, employees, or contractors. For the purpose of this rule, "personal property" means any property that offenders are allowed to possess, excluding state-issued property and contraband, in accordance with the department's administrative procedures for Policy 02-01-101, "offender personal property". (*Department of Correction; 210 IAC 1-10-1; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA*)

210 IAC 1-10-2 Time limit for filing a claim

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 2. An offender must file a claim pursuant to this rule no later than one hundred eighty (180) days after the date of the alleged loss. Claims filed after this time frame has elapsed shall not be considered and shall be returned to the offender. (*Department of Correction; 210 IAC 1-10-2; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA*)

210 IAC 1-10-3 Claim filing

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 3. (a) In those cases where an offender alleges that the department or its agents have lost, damaged, or destroyed personal property belonging to the offender, the offender may file a claim for compensation. The offender shall complete the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form. Each facility shall ensure that copies of this form are made available in the offender law library, offender housing units, or other suitable location. The offender also may obtain this form from his or her counselor.

(b) The offender will be required to complete this form by providing as much information as possible when describing the item lost and the manner in which it was lost. The offender shall attach any supporting documents or information to this form. When the form is completed, the offender shall submit the form to the facility head. The offender shall also send a copy of the claim, including all supporting documents, to the department's Tort Claim Administrator, Division of Legal Services, Indiana Government Center-South, 302 West Washington Street, E334, Indianapolis, Indiana 46204. (*Department of Correction; 210 IAC 1-10-3; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3542; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA*)

210 IAC 1-10-4 Claim investigation

Authority: IC 34-13-3-7
Affected: IC 34-13-3

Sec. 4. (a) The facility head shall designate a staff person to act as the facility's tort claims investigator. The tort claims investigator shall have access to all areas of the facility in order to investigate claims and make recommendations for settlement if applicable.

(b) The duties of the facility tort claims investigator shall include the following:

- (1) Receiving the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form from the facility head.
- (2) Reviewing this form and any accompanying documentation.
- (3) Investigating the claim made by the offender, including the following:
 - (A) Interviewing staff and the offender as necessary.

(B) Reviewing all pertinent documents, including personal property inventories, and commissary requests.

(C) Completing any other actions necessary to make a recommendation on the claim.

(4) Making a recommendation concerning the settlement of the claim and complete the tort claims investigator's section of the RECOMMENDATION ON TORT CLAIM form.

(5) Submitting the RECOMMENDATION ON TORT CLAIM form to the department's tort claims administrator.

(6) Maintaining files of all property loss tort claims filed by offenders at the facility.

(Department of Correction; 210 IAC 1-10-4; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3543; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA)

210 IAC 1-10-5 Claim administration

Authority: IC 34-13-3-7

Affected: IC 34-13-3

Sec. 5. (a) The commissioner of the department shall appoint a staff person within the division of legal services to act as the tort claims administrator for all claims regarding loss of property by offenders. This staff person shall report to the director of the division of legal services.

(b) The duties of the tort claims administrator shall include the following:

(1) Receiving copies of the NOTICE OF LOSS OF PROPERTY–TORT CLAIM form submitted by offenders.

(2) Assigning a sequential case number to each notice received.

(3) Advising the facility tort claims investigator and the offender as to the case number assigned to the claim.

(4) Receiving copies of the RECOMMENDATION ON TORT CLAIM form from the facility tort claims investigator.

(5) Reviewing all documents and forms received from the offender and the facility tort claims investigator.

(6) Requesting additional information from the facility or the offender, as necessary.

(7) Making a recommendation to the office of the attorney general concerning settlement of the claims, including the following:

(A) Completing the AMENDMENT TO TORT CLAIM form in cases where the claim appears appropriate but the amount requested is not correct.

(B) Forwarding the AMENDMENT TO TORT CLAIM form to the facility tort claims investigator as necessary.

(C) Receiving the completed AMENDMENT TO TORT CLAIM form from the facility tort claims investigator.

(D) Completing the tort claims administrator section of the RECOMMENDATION ON TORT CLAIM form.

(8) Submitting all documentation to the office of the attorney general.

(9) Maintaining a file on all property loss tort claims filed in the department.

(10) Serving as the department liaison with the office of the attorney general for property loss tort claims.

(Department of Correction; 210 IAC 1-10-5; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3543; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA)

210 IAC 1-10-6 Claim settlement

Authority: IC 34-13-3-7

Affected: IC 34-13-3

Sec. 6. (a) All checks for payment of property loss claims shall be sent to the offender at his or her housing facility.

(b) In those cases where the offender has been released from the department prior to the settlement of the claim, the tort claims administrator shall provide the attorney general with the offender's last known address. *(Department of Correction; 210 IAC 1-10-6; filed Jun 17, 2003, 9:25 a.m.: 26 IR 3543; readopted filed Dec 2, 2009, 2:18 p.m.: 20091223-IR-210090805RFA)*

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