

CHAPTER: 900
Inmate Programs and Services

DEPARTMENT ORDER:
902 – Inmate Legal Access to the Courts

OFFICE OF PRIMARY
RESPONSIBILITY:
DIR

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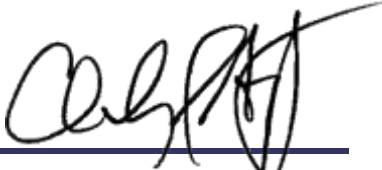
ACCESS

Contains Restricted Section(s)

Arizona Department of Corrections

Department Order Manual





Charles L. Ryan, Director

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PURPOSE

The Department of Corrections ensures all inmates have direct access to the courts in all legal claims involving direct appeals from the conviction for which they are incarcerated, habeas petitions, civil rights actions, or conditions of confinement. The Department facilitates this access by making forms and specific legal assistance available to the inmate population. The system is designed to maximize inmates' opportunity to present legal claims pertaining to the aforementioned legal claims to the State or Federal court, in a quick, efficient manner, with no barriers. This Department Order establishes the process to be used by inmates for gaining access to the courts and also describes the role of all parties involved. This Department Order sets forth all affirmative steps the Department shall take to assist inmates in obtaining access to the courts. This process does not affect the inmates' ability to independently pursue actions on their own or to obtain outside counsel to represent them.

RESPONSIBILITY

The Legal Access Monitor shall monitor this inmate legal access to the courts system in all facilities to ensure the assistance provided to inmates by Paralegals (See the Glossary of Terms) conforms to all Department written instructions and contract provisions, and ensure employees are complying with the provisions of this Department Order.

PROCEDURES

1.0 SYSTEM OVERVIEW – Inmates shall have direct access to the courts through the mail.

1.1 Qualified Legal Claims – (See the Glossary of Terms.) Inmates who do not feel able to draft pleadings or to complete District Court/state forms without assistance may:

1.1.1 Contact an attorney directly, at the inmate's expense.

1.1.2 Request the court to appoint an attorney to represent them.

1.1.3 Obtain active assistance through the Department from Paralegals, as outlined in section 4.0 of this Department Order.

1.2 Non-Qualified Legal Claims – The Department may not actively assist inmates in the filing of documents not involving civil rights, conditions of confinement, appeals from conviction, or habeas petitions. Inmates who desire assistance filing pleadings or petitions in matters not related to civil rights or conditions of confinement, appeals from conviction or habeas petitions may seek assistance of counsel, the courts or other assistance outside the Department. The Department may provide passive assistance as noted below:

1.2.1 Inmates may use legal texts and resource materials, as provided in section 2.0 of this Department Order and identified in Attachment A.

1.2.2 Inmates may request from the Paralegal or designated staff the address of any Arizona Court above the level of Justice of the Peace courts and selected Federal Courts. (See Attachment B for State Court material (Court Forms Packets); and Attachment C for Federal Courts.)

1.3 Legal Research – No provision is made in this system for extensive, generalized legal research.

- 1.4 Inmate Legal Assistants and Law Clerks – There is no provision in this Department Order for an inmate legal assistance program. The Department shall take no affirmative steps to assist inmates helping other inmates with qualified legal claims. Inmates are prohibited from assisting other inmates with non-qualified legal claims.
- 1.5 Right to Retain Counsel – This system does not interfere with an inmate's right to retain counsel, to the extent the inmate can afford counsel and is willing to pay for the services of an attorney.
 - 1.5.1 Inmates may, of course, avail themselves of pro bono services of a court-appointed attorney.
 - 1.5.2 Nothing in this system suggests inmates may retain someone other than a licensed attorney for legal purposes.
- 1.6 Access to Legal Resources – All institutions shall provide access to the required legal resources. Smaller stand-alone units may transport inmates to an institution which has the required legal resources, or shall provide storage areas for legal resources and materials in addition to the required work space.
- 1.7 Approved Department Forms and Other Documentation – Staff and inmates shall only use the Department forms authorized by this Department Order to request services or report information about this legal access system. Any other forms are null and void. If additional forms are required, they shall be developed and approved only in accordance with Department Order #114, Forms Management System.

2.0 LEGAL RESOURCES AND ACCOMMODATIONS

- 2.1 The Legal Resources (identified in Attachment A) are presently available for inmate use. Any additions or deletions to the legal texts and resource material identified in Attachment A shall be subject to the Director's approval.
- 2.2 All legal reference texts and manuals available for use by inmates shall be kept in the Reserve/Reference section of the unit Library, under the control of designated staff, and shall be used only in the unit Library, with the exception noted in 2.3.2 of this section.
 - 2.2.1 Legal Resource Centers shall provide no legal resource material except for such material set forth in this Department Order.
 - 2.2.2 The units are not required to possess and shall not possess older versions of the law. The centers do not provide archive services. Therefore, inmates requesting older versions of the law, for whatever reason, should be encouraged to contact the courts.
- 2.3 Inmates who visit the library may check out legal texts, manuals, and other legal reference material for a specified period of time within a given day, for use only in the library.
 - 2.3.1 Each book shall have a check out card, on which inmates shall write their name and ADC number.
 - 2.3.1.1 Inmates shall leave their identification card with designated staff, to be returned to them when they return the book.

2.3.2 Under special circumstances an inmate who is unable to visit the library may obtain legal texts and resources for use outside the library. Complex Detention Units (CDUs) and Protective Custody units shall maintain a legal resource library as prescribed in section 8.0, 8.3 and 8.3.1 of this Department Order.

2.4 The Legal Access Monitor shall provide designated staff with a supply of current court forms as identified in Attachment B. The inmate shall pay for copies of these court documents in accordance with section 6.0 of this Department Order.

2.4.1 Inmates may draft their own pleadings, motions and other legal documents.

2.4.2 Handwritten forms which are left incomplete shall not be considered qualified for copying.

2.5 The Department shall not supply inmates with forms, documents or any legal materials from other states. It shall be the duty of the inmate to contact the out-of-state court to request any forms, documents or legal materials from that state.

2.6 The Department shall ensure inmates have access to the name and address of the Arizona State Courts and Federal District/Appellate Courts. These addresses shall be made readily available to inmates, and shall be posted on library bulletin boards in each unit. One or more copies shall be kept in the Reserve/Reference section of the unit Library for referral by inmates. These copies are not to be taken from the Reserve/Reference desk; however, if an inmate requires a copy, it may be purchased in accordance with section 7.0 of this Department Order.

2.7 The unit Deputy Warden may set aside a private room for the use of the Paralegal.

2.7.1 If requested by the Paralegal, a telephone with a speaker may be provided for use in tele-conferencing.

2.7.2 In all instances, designated staff, together with security staff, shall ensure inmates who are meeting with Paralegals have space to prepare their legal actions.

2.8 The Department shall not make computers or typewriters available to inmates in the unit Library for the purpose of enabling inmates to do legal work. Only inmates who have a qualifying disability may be provided a personal typewriter pursuant to a court order.

3.0 GENERAL RESPONSIBILITY – This inmate legal access to the courts system relies on five specific groups of individuals, with general responsibility as follows:

3.1 Designated Staff – These staff members shall be responsible for:

3.1.1 Cataloging and maintaining legal resources in the Reserve/Reference section of the unit Library; signing out legal texts to inmates for use only in the library; keeping track of legal texts to prevent/minimize loss; making texts available for inmates who have limited access to the library; and maintaining records in accordance with Department Order #103, Correspondence/Records Control.

3.1.1.1 A monthly inventory of legal resources shall be completed and a copy sent via interoffice mail to the Legal Access Monitor during the first week of the following month.

- 3.1.2 Coordinating, with institution staff and the Paralegal, the scheduling of appointments for inmates to meet with Paralegals (See section 4.0, of this Department Order) and ensuring inmates are made aware of the date and time of their appointment.
 - 3.1.2.1 Designated staff shall work closely with security/other staff to arrange for meetings between Paralegals and inmates. Paralegals shall be allowed to remain and work in the facilities in order to complete appointments.
 - 3.1.3 Photocopying or supervising the photocopying of all qualified and non-qualified legal claims.
 - 3.1.4 Processing inmate requests for services including: notary services, copies of the court forms identified in Attachment B and other chargeable services in accordance with sections 6.0 and 7.0 of this Department Order.
 - 3.1.5 Facilitating the delivery of notary services, copies or other chargeable services in accordance with sections 6.0 and 7.0 of this Department Order.
 - 3.1.6 Providing assistance to the inmate in properly completing Department forms, requesting assistance or having photocopies made.
 - 3.1.7 Maintaining the Paralegals – Unit Sign-In Log, Form 902-4, at each unit for the ingress and egress of the Paralegals. Designated staff shall collect data regarding Paralegal visits and provide the information to the Legal Access Monitor on a monthly basis to use in verifying on-site hours worked by the Paralegal contractors. The Paralegals – Unit Sign-In Log form shall be maintained for a period of three years.
- 3.2 Paralegals – Although not required to do so by law, the Department provides inmates with an opportunity to obtain assistance from qualified Paralegals (see the Glossary of Terms), to facilitate their access to the courts.
- 3.2.1 Paralegals shall be responsible for:
 - 3.2.1.1 Assisting inmates who request assistance in the actual preparation of their initial pleadings or petitions for filing with the courts.
 - 3.2.1.2 Providing bilingual services as required.
 - 3.2.1.2.1 A tele-conference with a bilingual interpreter is permissible.
 - 3.2.1.2.2 Certified interpretation is not required.
 - 3.2.1.3 Providing notary services, paid for by the inmate, in accordance with section 6.0 of this Department Order, to the extent required by court rules.
 - 3.2.1.3.1 Non-qualified legal materials shall be notarized by authorized staff.

- 3.2.1.4 Making the determination as to what legal documents require photocopying and the number of copies to be made in matters involving qualified legal claims where the inmate is indigent. The Paralegal shall consult with the Legal Access Monitor if a question or problem arises. (See section 5.0, of this Department Order.)
- 3.2.1.5 Contacting the Legal Access Monitor if they have any questions themselves pertaining to the inmate access to the courts system.
- 3.2.1.6 Contacting the Warden or designee with questions concerning institutional activity, coordination, etc.
- 3.2.1.7 Providing inmates with copies of Court names and addresses at a cost of \$.10 per printed side.
- 3.2.1.8 Complying with Department Orders and other Department written instructions, as identified in their contract, as well as the terms and conditions of their contract.
- 3.2.1.9 Recording their time in hours to the nearest tenth using the Paralegal Activity Log, Form 902-3, on a weekly basis, and forwarding a copy to the Legal Access Monitor on a bi-weekly basis.
- 3.2.1.10 Reviewing questionable outgoing legal mail to determine if it is actually legal mail. (Mail not addressed to an attorney, judge or court, but may be required by court order or statute.)
- 3.2.2 Paralegals shall not:
 - 3.2.2.1 Practice law, give legal advice, conduct legal research, represent an inmate or make referrals.
 - 3.2.2.2 Aid inmates in any matter, legal or non-legal which does not involve qualified legal claims. The Paralegal may direct inmates to where they may find information in the resource center.
 - 3.2.2.3 Assist inmates in qualified legal claims beyond the initial filing of their pleadings with the courts.
- 3.3 Legal Access Monitor – The Legal Access Monitor shall be responsible for:
 - 3.3.1 Providing system-wide monitoring and operational oversight of the inmate legal access to the courts system.
 - 3.3.2 Ensuring the Paralegals are assisting inmates on matters involving qualified legal claims only and only at the initial pleading stage.
 - 3.3.3 Resolving questions Paralegals and designated staff may have concerning the inmate legal access to the courts system.
 - 3.3.4 Ensuring Paralegals are adhering to all contract provisions and Department written instructions in assisting inmates.

- 3.3.5 Visiting selected prison facilities to monitor the activities of the Paralegals, overseeing the operations of the inmate access to courts system, and reviewing legal resource material to ensure it is up to date and complete.
- 3.3.6 Ensuring accommodations and arrangements are being made for special needs inmates. (See section 8.0, of this Department Order.)
- 3.3.7 Making recommendations to the Director to either purchase additional sets of legal resource materials or eliminate resource materials, as appropriate.
- 3.3.8 Reviewing Paralegal Activity Log forms and billings for accuracy and determining the proper amount to be paid for work completed.
- 3.3.9 Reordering legal texts, as necessary, to replace missing texts and ordering updates as they become available from the publisher.
- 3.3.10 Performing other duties, as assigned.
- 3.4 ADC Attorneys – The ADC Attorneys shall be responsible for overseeing the tasks of the Legal Access Monitor and providing the Legal Access Monitor with direction.
- 3.5 Inmates – Inmates may use the resources available through this inmate legal access to the courts system.
 - 3.5.1 The Department shall not establish an inmate legal assistant/inmate law clerk program, nor shall the Department take any affirmative steps in assisting inmates in helping other inmates with qualified legal claims.
 - 3.5.1.1 Inmates who have been found charging or bartering in exchange for services, or who have been found to be creating a security problem or assisting inmates with non-qualified legal claims shall be disciplined and shall be precluded from helping other inmates in the future. No inmate shall be allowed to assist another inmate if the Warden or Deputy Warden determines a potential or existing security problem has developed or may develop, or allowing such assistance may detrimentally impact institutional resources.
 - 3.5.1.2 Inmates shall not possess or store other inmates' legal paperwork in their cell or housing area.
 - 3.5.2 Inmates shall mail legal materials in accordance with section 11.0 of this Department Order.
 - 3.5.3 Inmates shall attempt to resolve issues related to this inmate legal access to the courts system through designated staff before contacting the Legal Access Monitor.
- 4.0 PARALEGAL ASSISTANCE** – Inmates may receive active assistance in the initial filing of pleadings involving qualified legal claims from Paralegals provided by the Department. (See Attachment D, Paralegal Assistance Request Process.)

- 4.1 Inmates desiring legal assistance from a Paralegal shall complete an Inmate Request for Paralegal Assistance, Form 902-1, available only from designated staff. The request shall include a plain, concise description of the qualified legal claim and the type of assistance requested. The Inmate Request for Paralegal Assistance form is not to be used to ask legal questions, only to request to meet with the Paralegal regarding their qualified issues. The Inmate Request for Paralegal Assistance form shall also be available in Spanish. Illiterate inmates shall contact designated staff, who shall help them complete the form. Inmates serving sentences pursuant to Interstate Corrections Compact and concurrent custody agreements shall make the request in accordance with 4.11 of this section.
 - 4.1.1 If the issue involves Section 1983 Civil Rights or Conditions of Confinement, the inmate shall have first attempted to resolve the issue through the inmate grievance process, in accordance with Department Order #802, Inmate Grievance Procedure. The inmate shall attach a copy of the final disposition of the grievance to the initial request for assistance. If the inmate has not attempted to resolve the issue through the inmate grievance process, the Paralegal shall advise the inmate the court will likely dismiss the inmate's suit if the inmate fails to exhaust the administrative remedies available through the inmate grievance system.
 - 4.1.2 If the issue involves Notice of Appeal from the Superior Court, a Rule 32 or habeas petition, the inmate shall include the appropriate legal documents/orders of the court out of the trial court record.
- 4.2 Once the inmate has completed his/her portion of the form, the form shall be given directly to designated staff or placed in a designated drop box or tray at the direction of designated staff.
- 4.3 Designated staff shall accept, sign and date the Inmate Request for Paralegal Assistance form, provide a copy to the inmate, and forward the request along with any attached documents to the Paralegal. Designated staff:
 - 4.3.1 May fax the request and attachments (if any) to the Paralegal, using the designated fax machine. Material to be faxed shall not exceed 20 pages. Staff may also scan the request and send an electronic copy to the Paralegal via e-mail.
 - 4.3.2 Shall charge the inmate the actual cost of faxing as determined by the institution. The charge shall be the actual cost of the telephone connection.
 - 4.3.2.1 The inmate shall prepare and submit an Inmate Request for Withdrawal, Form 905-1, to the designated staff prior to faxing. Inmates without the necessary funds shall be handled as specified in section 6.0, 6.1 of this Department Order.
 - 4.3.3 Shall not intercept or delay Inmate Requests for Assistance.
- 4.4 The Paralegal shall review each request and determine whether the matter described involves a qualified legal claim.
 - 4.4.1 If it is unclear whether the issue involves a qualified legal claim and/or the Paralegal determines a meeting is appropriate, the Paralegal shall request designated staff, in consultation with the Paralegal, schedule a meeting with the requesting inmate to resolve the issue(s).

- 4.4.2 If the request does not involve a qualified legal claim, the Paralegal shall not provide assistance and shall return the request for assistance to the inmate through designated staff. If possible, the Paralegal shall direct the inmate to where assistance for a non-qualified claim exists.
- 4.5 The Paralegal shall keep a copy of the request.
- 4.6 Designated staff shall work with security staff and the Paralegal in scheduling days and hours when the Paralegal is scheduled to meet with inmates, based upon inmate population, the volume of requests, quick access, court deadlines and appropriate attention to security issues.
- 4.7 Designated staff shall schedule an appointment, in consultation with the Paralegal, and notify both the Paralegal and the inmate by completing the appointment section of the Inmate Request for Paralegal Assistance form and forwarding a notification copy to the inmate and to the Paralegal. Designated staff shall keep the file copy of the request and forward a copy to the Legal Access Monitor.
 - 4.7.1 Turn-outs for scheduled Paralegal meetings shall not be suspended except when a legitimate security concern exists to do so.
- 4.8 Paralegals shall meet with inmates to provide necessary assistance with preparation of the initial pleading for filing. However, for Arizona inmates in other states who are serving sentences pursuant to Interstate Corrections Compact or concurrent custody agreements and who, in accordance with 4.11 of this section, request assistance with the preparation of an initial pleading, the Paralegal shall ensure one copy of the appropriate sections of legal references; forms and instructions are mailed to the inmate. The mailings shall be made by Interstate Corrections Compact staff at the Prison Operations expense.
 - 4.8.1 Paralegals shall not provide assistance beyond the initial filing stage. (See section 3.0, 3.2 of this Department Order for details concerning assistance provided by Paralegals.)
 - 4.8.2 The Paralegal may authorize designated staff to copy documents in accordance with section 5.0 of this Department Order by completing the appropriate authorization requests.
 - 4.8.3 The Paralegal may request additional meetings, as necessary. If additional meetings are required, designated staff shall schedule the meeting using a Paralegal Meeting Notification, Form 902-8.
 - 4.8.4 The Paralegal shall be available on an as needed basis, based on number of requests, type of request and possible deadlines. The schedule shall be determined by the Paralegal and designated staff.
- 4.9 Staff shall not retaliate against an inmate for requesting assistance from a Paralegal or for exercising any other legal privilege pursuant to this Department Order nor shall they retaliate against an attorney, agent of an attorney or any other person for exercising any privilege pursuant to this Department Order.

- 4.10 Designated staff and/or Paralegals shall:
- 4.10.1 Direct questions concerning this inmate access to the courts system to the Legal Access Monitor.
 - 4.10.2 Immediately report suspected abuses of this inmate access to the courts system to the Warden or Deputy Warden for review and resolution, ensuring the Legal Access Monitor is also advised.
- 4.11 Arizona inmates in other states who are serving sentences pursuant to Interstate Corrections Compact and concurrent custody agreements may, upon written request addressed to the Offender Services Bureau Administrator, receive Paralegal assistance for a qualified claim. Upon receipt of the inmate's written request, the Administrator shall notify the Legal Access Monitor. The Legal Access Monitor shall forward the inmate's request to a Paralegal, who shall provide assistance, via the mail, for post-conviction relief claims and condition of confinement/civil rights claims which arose in Arizona. Any claim pertaining to conditions of confinement outside of Arizona shall be filed in the state where the inmate is confined. The mailings shall be made by Interstate Corrections Compact staff at the expense of Prison Operations.

5.0 QUALIFIED LEGAL CLAIMS COPYING – (See Attachment E, Qualified Legal Claims Copying Process.)

All requests for copying involving qualified legal claims, except as provided in section 5.0, 5.10, shall be reviewed by the Paralegal prior to copying by using the following process:

- 5.1 To request photocopies, the inmate shall complete the appropriate section of a Request/Authorization for Qualified Legal Claim Copying, Form 902-2, and shall submit the request with the documents to be copied attached (including a copy of the pleading if the documents to be copied are intended as an attachment), in person, to designated staff. Failure to attach sufficient documentation to enable the Paralegal to determine if documents are qualified may result in a delay or return of the request to the inmate. The Paralegal shall deny a request which is vague or does not substantiate a qualified legal claim. It shall then be necessary for the inmate to submit another request with sufficient documentation.
- 5.1.1 In the event the inmate is obtaining active assistance from the Paralegal and has completed the pleading in the presence of the Paralegal, the Paralegal shall complete the Request/Authorization for Qualified Legal Claim Copying form and submit it with the pleading directly to designated staff for photocopying.
- 5.2 Designated staff shall sign and date the form and provide the inmate a copy of the request as a receipt.
- 5.3 Designated staff shall forward the packet to the Paralegal.
- 5.4 The Paralegal shall review the packet to determine which documents shall be copied and how many copies are to be made. Documents which violate prison rules (i.e., gang symbols, instructions regarding illegal activities, etc.) shall not be copied.
- 5.5 If Department Order compliance interpretation is needed then the Paralegal shall consult with the Legal Access Monitor.
- 5.6 The Paralegal shall complete the request and, within three work days of receipt, shall return the packet to designated staff.

5.7 Designated staff shall:

5.7.1 Make photocopies in accordance with the Paralegal's notation on the request form, ensuring the inmate has paid for the copies or the account has been placed on hold in accordance with section 6.0 of this Department Order. Photocopies shall be made, if possible, within three work days of designated staff receiving the request form back from the Paralegal. Extra time may be necessary for extensive copying requests.

5.7.1.1 All legal documents, such as, but not limited to, pleadings, briefs, motions, affidavits, copies of case law, and licenses submitted for photocopying shall not be censored, but may be read to the extent required to establish the contents of the document do not contain contraband.

5.7.1.2 All legal matters, other than legal documents, namely and especially letters to or from an inmate's attorney, to or from a judge, or to or from a court of law, which are submitted for photocopying, shall not be read or censored, but may be scanned to the extent necessary to establish the letters which do not contain contraband.

5.7.2 Refrain from photocopying any documents, if so instructed by the Paralegal.

5.7.3 Arrange for a meeting between the Paralegal and the inmate, if so instructed by the Paralegal.

5.8 Designated staff shall keep a copy of the request and:

5.8.1 Forward a copy of the Request/Authorization for Qualified Legal Claim Copying form, together with the photocopied material, to the inmate.

5.8.2 Return the material, above, to the inmate if the request was denied.

5.8.3 Forward the Inmate Request for Withdrawal, Form 905-1, to the Business Office in accordance with section 6.0 of this Department Order, if the material is to be photocopied.

5.8.4 Forward a copy of all requests for qualified legal claim copying to the Legal Access Monitor on a monthly basis.

5.9 The Paralegal's decision is final. Inmates may present concerns regarding qualified legal claim copying to the Legal Access Monitor through designated staff using the Inmate Letter, Form 916-1.

5.10 The inmate shall be responsible for payment for copies in accordance with section 6.0 of this Department Order, except the inmate may choose to pay for copies relating to qualified legal claims in accordance with section 7.0 of this Department Order. In this event, the documents do not require the Paralegal's review.

5.11 If the copies do not relate to a qualified legal claim, the inmate may request copies be made in accordance with section 7.0 of this Department Order as non-qualified legal documents or non-legal documents.

- 5.12 Telephonic review of qualified legal copying requests may be done when designated staff and the Paralegal determine it necessary based upon time frames (e.g., verified impending court deadlines, date of Paralegal’s next visit to the unit, etc.)
- 5.13 There is no requirement for the Paralegal to meet in person with the inmate to review a qualified legal copy request.
- 5.14 Requests for copies of Exhibits/Attachments shall have a legitimate pleading to support the copying of those documents. Exhibits/Attachments shall also relate to the pleading. The Paralegal may deny copying of documents if they do not relate to a pleading in an active court case.

6.0 CHARGES - QUALIFIED LEGAL CLAIMS – All inmates shall be responsible for payment for services related to qualified legal claims.

- 6.1 For issues relating to qualified legal claims, the service requested shall be provided in accordance with the Paralegal’s notation on the request regardless of the inmate's ability to pay. However, if the inmate has funds available, the cost of the service shall be deducted from the inmate's account. If funds are not available, the inmate's account shall be placed on hold in accordance with Department Order #905, Inmate Trust Account/Money System, until such time as the debt is paid.
- 6.2 Chargeable services include, but are not limited to:
 - 6.2.1 Qualified legal claim photocopying, including required court forms, other attachments or other documentation.
 - 6.2.2 Notary services related to qualified legal claims, or as required by statute or court rules.
 - 6.2.3 Court forms listed on Attachment B. (There is no charge for the initial form requested, or for one subsequent request on the same pleading.)
- 6.3 An inmate who is requesting any service relating to qualified legal claims shall complete and deliver to designated staff an Inmate Request for Withdrawal form in the amount necessary to completely pay for the requested service at the time designated staff perform the service or arrange for delivery of the service. For photocopies, the Request/Authorization for Qualified Legal Claim Copying form shall be required.
- 6.4 Designated staff shall submit the Inmate Request for Withdrawal form to the Business Office when the service has been provided to the inmate. Designated staff shall indicate on the Inmate Request for Withdrawal the service is for qualified legal claims.
- 6.5 The Business Office shall:
 - 6.5.1 Upon receipt of the Inmate Request for Withdrawal form, ensure if funds are available the inmate's account is debited or the inmate's account is placed on hold.
 - 6.5.2 Ensure the Inmate Request for Withdrawal form serves as documentation for the hold or request for payment.
 - 6.5.3 Ensure funds collected are deposited in the appropriate account in accordance with Department Order #905, Inmate Trust Account/Money System.

- 6.6 The charge for any document is \$.10 per printed side (excluding those provided at no charge as outlined in 6.2.3 of this section), including copies of court forms listed on Attachment B, a photocopy of a document or form, or any other form published by another agency or court (normally available and provided by the Department).
- 6.7 The charge for notary public services shall be \$1.00 per notarized document, pursuant to A.R.S. §41-316. Notaries related to statute or court required purposes shall be treated the same as qualified legal claims. The Paralegal or Legal Access Monitor can assist in determining these types of notaries.
- 6.8 The price charged for individual services, forms or copies shall be subject to periodic review and adjustment by the Director.

7.0 NON-QUALIFIED LEGAL CLAIMS SERVICES – (See Attachment F, Non-Qualified Legal Claims Copying Process.) Inmates shall be charged for all non-qualified legal claim photocopies as well as other services provided for in this section. Non-legal copying shall be done in accordance with Department Order # 919, Inmate Resource Center/Library Services.

- 7.1 Inmates who do not have sufficient funds to pay for the copies/service at the time requested shall be denied the service or copies.
- 7.2 All documents submitted for copying shall be in compliance with Department Order #909, Inmate Property, and are not to violate any other written instructions.
- 7.3 Chargeable items include:
 - 7.3.1 Non-qualified legal claim photocopies.
 - 7.3.2 Qualified legal claims photocopies were not copied, in accordance with the Paralegal's notation on the request.
 - 7.3.3 Names and address lists for federal or state courts. (See Attachment C for federal courts. State courts are available in the Legal Resource Center.)
 - 7.3.4 Notary Services related to non-qualified claims.
- 7.4 An inmate who wishes to purchase non-qualified claim photocopies or other immediately chargeable services shall complete an Inmate Request for Withdrawal form and request the assigned Correctional Officer III verify funds are available.
- 7.5 The Correctional Officer III shall verify the availability of funds and sign and date the Inmate Request for Withdrawal form in accordance with Department Order #905, Inmate Trust Account/Money System.
- 7.6 The inmate shall deliver the Inmate Request for Withdrawal form to designated staff within two work days of verification by the Correctional Officer III, together with the material to be photocopied. An inmate who wishes to copy non-qualified legal material shall complete a Request for Non-Qualified/Non-Legal Copying, Form 902-7, as well as the Inmate Request for Withdrawal form, and deliver the Request for Non-Qualified/Non-Legal Copying form, the Inmate Request for Withdrawal form and the documents to be photocopied to designated staff.

- 7.7 Designated staff shall determine if the copies are authorized in accordance with Department Order #909, Inmate Property, or other written instructions. If there is any question about the suitability of the copies, designated staff may consult with:
- 7.7.1 His/her supervisor, the unit Deputy Warden or the unit Chief of Security.
- 7.7.2 The Legal Access Monitor or the Paralegal if it appears the copying may be legal in nature.
- 7.8 Any attempt by the inmate to have contraband documents copied shall result in denial of the request for copies and shall subject the inmate to disciplinary action.
- 7.9 Designated staff shall arrange for delivery of the service, copies or forms and submit the Inmate Request for Withdrawal form to the institution Business Office where the appropriate deduction from the inmate's account shall be made. Designated staff shall ensure the Inmate Request for Withdrawal form indicates it is for payment of non-qualified services or photocopies.
- 7.10 If at any time an inmate requests and receives copies or other service for which payment is due and the inmate's account has insufficient funds to pay, the account shall be placed on hold in accordance with Department Order #905, Inmate Trust Account/Money System. The hold shall remain in place until such time as the inmate has satisfied the obligation.
- 7.11 At no time shall non-qualified legal claims copying or non-legal copying take precedence over copying of documents relating to qualified legal claims.
- 7.12 All non-qualified legal matter copies shall be sold at \$.10 per printed side.
- 7.13 Any other form published by another agency relating to a non-qualified legal claim, or to be utilized by the inmate for non-qualified legal claim purposes, which the inmate may require and the Department normally provides, may be sold at a charge of \$.10 per printed side.
- 7.14 Court name and address documents shall be copied at a charge of \$.10 per printed side.
- 7.15 The Notice of Claim required for property claims in accordance with Department Order #909, Inmate Property, shall be sold to inmates at a cost of \$.10 per copy. This form is not to be used for any other purpose than as outlined in Department Order #909, Inmate Property.
- 7.16 Inmates who request Notary Public Services for non-qualified/non-legal matters shall be charged \$1.00 per notarized document.

8.0 SPECIAL NEEDS INMATES

- 8.1 Accommodations shall be made, as needed, to ensure access to the courts for inmates with special needs, to include inmates who are illiterate, non-English speaking, and disabled.
- 8.1.1 Accommodation may include providing a tele-conference with a bilingual interpreter and the Paralegal.
- 8.2 Arrangements shall be made for inmates who have limited access to the unit Library to meet with Paralegals, to review legal resource materials, or to obtain forms or photocopies.

8.3 CDUs and Protective Custody units shall establish and maintain, within the unit, a collection of the required legal resource materials as identified in Attachment A.

8.3.1 The Warden shall designate a staff member to be responsible for those functions identified in section 3.0, 3.1 through 3.1.6 of this Department Order.

9.0 LEGAL SUPPLIES

9.1 Inmate stores shall stock only those items authorized by Department Order #909, Inmate Property. There shall be no special order items.

9.2 Inmates shall be provided legal supplies regardless of their ability to pay. If the inmate does not have funds available, a hold shall be placed on the inmate's account.

9.3 Inmates shall be charged the current inmate store price for any item received.

9.4 The amount of legal supplies provided per month to inmates who request them and do not have the funds to pay shall be:

9.4.1 Pens - 1

9.4.2 Pencils – 2

9.4.3 Legal pad/writing tablet (size 8 1/2" x 11") – 2

9.4.4 Pre-stamped, regular envelopes – 5 (marked with 'LEGAL MAIL')

9.4.5 Manila envelopes – 5 (marked with 'LEGAL MAIL')

9.5 Additional legal supplies may be provided after a showing is made by the inmate which additional supplies are necessary in order to present or support a qualified claim. These additional items shall be issued on an individual basis.

9.5.1 The Paralegal shall verify the inmate is actually working on a qualified legal issue before additional legal supplies are provided.

9.6 Legal supplies are those supplies actually used for qualified and non-qualified legal claims. The Department is not required to provide supplies for personal/private use.

9.7 In order for indigent inmates to receive or continue to receive monthly legal supplies they must demonstrate the supplies they have received are actually being used for qualified legal purposes. The Paralegal can assist in verifying actual qualified use of legal supplies.

10.0 LEGAL PROPERTY – Inmates shall be permitted to maintain personal legal books and materials in their housing location. Inmates shall be provided with legal boxes regardless of their ability to pay. If the inmate does not have funds available, a hold shall be placed on the inmate's account. Inmates shall only be provided with sufficient boxes to properly store specific legal documents. Refer to Department Order #704, Inmate Regulations for further information concerning storage boxes.

10.1 Inmates are authorized to keep no more than three boxes of legal materials in their living area.

- 10.1.1 The dimensions of each box shall not exceed 17-1/2" in length x 10-1/4" in height x 11-1/2" in width.
 - 10.1.2 The weight of each box shall not exceed 20 pounds.
 - 10.1.3 Each box of legal material shall be numbered in sequential order.
 - 10.1.4 All boxes, to include those in storage, shall have the inmate owners name and ADC number clearly written on the top and side of each box.
- 10.2 Legal materials in excess of the three boxes shall be stored by the Department. In order to store excess legal materials, inmates shall, in the presence of staff:
 - 10.2.1 Seal legal materials in a box, after staff inspection for contraband.
 - 10.2.2 Ensure their name and ADC number are written on the top and side of the box.
 - 10.2.3 Ensure the box of legal material is numbered in the next sequential order.
- 10.3 Inmates shall store and possess only their own personal legal materials. If staff discovers an inmate is storing or possessing other inmate's legal materials, staff shall return the legal materials to the owner regardless of whether or not disciplinary action is taken.
 - 10.3.1 If it is determined an inmate has drafted legal documents on behalf of another inmate, and those documents are being stored or possessed by the inmate who drafted them, those documents shall be confiscated and not given to the inmate whose name may be listed on the documents.
- 10.4 When an inmate wishes to exchange one box of legal material for another, the inmate shall:
 - 10.4.1 Notify the Property Officer by Inmate Letter, Form 916-1.
 - 10.4.2 Clearly indicate by number the box(s) to exchange.
- 10.5 The Property Officer shall exchange the box(s) of legal materials within three work days from the date of receipt of the request, which shall be date stamped as received.
- 10.6 The legal materials to be exchanged shall be inspected for contraband by staff and sealed in the presence of staff prior to exchange.
 - 10.6.1 Only sealed boxes shall be exchanged.
 - 10.6.2 A Checklist for Storage of Inmate Legal Materials, Form 902-9, shall be used any time legal materials are stored or exchanged.
 - 10.6.3 Completed forms shall be placed in the Inmate Property File within five work days.
- 10.7 Possession of legal material and/or legal texts or books shall be subject to the quantity limitations in accordance with Department Order #909, Inmate Property.
- 10.8 Compact discs sent in from attorneys shall be considered as legal materials and barring any security concerns shall be stored in the inmate's legal boxes.

11.0 LEGAL MAIL

- 11.1 Inmates shall identify outgoing legal mail by writing "Legal Mail" on the lower left-hand corner of the envelope. (See the Glossary of Terms for guidance on what constitutes "Legal Mail.")
- 11.2 Outgoing mail not labeled as legal mail shall be processed as regular mail.
- 11.3 All legal mail, outgoing or incoming, shall be logged.
- 11.4 Staff who process incoming or outgoing inmate mail shall:
 - 11.4.1 Generally identify all legal mail and record it on a log by indicating the inmate's name and the sender's name.
 - 11.4.2 Inspect such mail for contraband, stamp the envelope "LEGAL MAIL, ARIZONA DEPARTMENT OF CORRECTIONS" using a commercial stamp, and log it before it is placed in the envelope and sealed by the inmate.
 - 11.4.2.1 All incoming mail, letters, memoranda, and documents, from an inmate's attorney or from a judge or court, shall be opened for inspection purposes in the presence of the inmate. Such incoming mail may be scanned in the conducting of an inspection for contraband, but shall not be read or censored by staff.
 - 11.4.2.2 All outgoing letters to an inmate's attorney or to a judge or court shall be brought to the mail room by the inmate, where the letter shall not be read or censored but shall be inspected for contraband and sealed in the presence of the inmate. All outgoing legal documents to an inmate's attorney or to a judge or court (other than letters to an inmate's attorney or to a judge or court, such as pleadings, briefs and motions) shall not be censored, but staff are not prohibited from reading such documents to the extent necessary to establish the absence of contraband.
 - 11.4.3 Send legal mail as first class mail regardless of the inmate's ability to pay the required postage.
 - 11.4.4 Submit names of inmates claiming to have inadequate funds for postage to the Business Office, indicating postage due from the inmate. The Business Office shall either debit the inmate account or, if there are insufficient funds to pay the postage, place a hold on the inmate account.
 - 11.4.5 Return the mail to the inmate if he/she requests mail to be sent as legal mail and it is not to an attorney, judge or court. The inmate may request to have the Paralegal review the mail to determine whether it may be approved as legal mail. The Paralegal may contact the Legal Access Monitor for direction.
- 11.5 Designated staff who process incoming mail shall attempt to make a determination, based on an inspection of the envelope, whether the contents constitute legal mail. The return address may be indicative of whether the contents of the envelope constitute legal mail. Designated staff shall not rely solely on the words "legal mail" having been stamped on the envelope. If there is any serious doubt as to whether the contents of the envelope contain legal mail, designated staff shall contact the Legal Access Monitor for direction.

- 11.6 Staff suspecting abuse of the legal mail designation shall advise the Warden or Deputy Warden who shall take appropriate action following consultation with the Department's General Counsel. An inmate who intentionally sends personal mail to a private address and falsely claims it is legal mail shall be subject to disciplinary action in accordance with Department Order #803, Inmate Disciplinary Procedure.
- 11.7 When applicable, staff shall take the following steps to locate inmates to whom legal mail is addressed and to forward such mail to the inmate.
- 11.7.1 Use the Adult Information Management System (AIMS) and inmate records to locate any addressee of legal correspondence who is not located at the institution which received the correspondence, and to locate any inmate who has received legal mail which does not have an ADC number as part of the address.
- 11.7.1.1 Staff shall have inmates verify they are the person to whom the legal mail is addressed utilizing the inmate's identification card.
- 11.7.2 Forward any legal correspondence to any inmate addressee who is under commitment to or supervised by the Department.
- 11.7.2.1 Inmates, releasees and parolees receiving forwarded legal correspondence shall notify the sender of their new address.
- 11.7.3 When legal mail is forwarded, in addition to the requirements outlined in 11.4.1 of this section, the inmate's forwarding address and the date forwarded shall be logged.
- 11.7.4 Return legal correspondence to the sender only if the addressee is no longer an inmate, releasee or parolee, in which case the sender shall be advised of this fact.

12.0 LEGAL PHONE CALLS - Inmates who have retained counsel may make legal phone calls in accordance with the following:

- 12.1 Inmates shall communicate legal matters through the mail whenever possible.
- 12.2 Legal phone calls may be approved when it is reasonable and necessary to do so. Staff shall approve court-ordered telephonic conferences and ensure the inmate is provided the opportunity to participate in the conference.
- 12.2.1 Legal phone calls should not exceed 30 minutes in length. Additional time is permitted at the discretion of the Deputy Warden. Time limits do not apply to court-ordered telephonic conferences.
- 12.3 The Department shall not pay, reimburse or be responsible for the placement of inmate legal calls. All outgoing legal calls shall be collect.
- 12.3.1 Court-ordered telephonic conferences shall be placed at the Department's expense, using the in-state long-distance telephone service when necessary.
- 12.4 Inmates shall request legal calls 24 hours in advance, by submitting a Legal/Emergency Telephone Call Request, Form 915-2, through staff designated by the Warden or Deputy Warden.

- 12.4.1 Upon approval, the call then shall be scheduled.
- 12.5 Legal phone calls shall only be denied or suspended due to security concerns, provided an effective method of legal communication remains available to the inmate.
 - 12.5.1 Legal phone calls shall not be denied as a form of discipline.
- 12.6 Legal phone calls shall not be monitored or recorded.
- 12.7 Staff shall not listen to the conversation, but shall maintain visual contact of the inmate when the inmate is in an area where security or information may be compromised.
- 12.8 Inmates who are acting Pro Se are not entitled to make legal calls unless instructed by the courts.
- 12.9 If an attorney requests a legal phone call with an inmate, staff shall contact the inmate first to determine if the inmate wishes the call. Staff shall have the inmate complete the Legal/Emergency Telephone Call Request form to accept or refuse a legal call from the requesting attorney.

13.0 LEGAL VISITS

13.1 Attorney/Agent of an Attorney Visits

- 13.1.1 Attorney or agent visits shall be held in a location within the institution designated by the Warden, Deputy Warden or Administrator of the institution.
- 13.1.2 Attorneys or their agents shall contact the Warden, Deputy Warden or Administrator at least 48 hours in advance of the requested visit and provide their name and date of birth. Attorneys shall also provide their Bar number.
- 13.1.3 Contact or non-contact visits by attorneys or their agents shall be allowed (consistent with the safe, secure and orderly operation of the institution) only when they are approved in advance by the Warden, Deputy Warden or Administrator.
- 13.1.4 In an emergency, the Warden, Deputy Warden or Administrator may waive the advance notice requirement.
 - 13.1.4.1 In such cases, the attorney or agent shall provide, at the time of the visit, written justification for the emergency.
 - 13.1.4.2 When a justified emergency exists, space for the visit shall be provided, consistent with the safe, secure and orderly operation of the institution.
- 13.1.5 Attorneys and agents shall be advised the inmate shall be questioned to determine if the inmate wishes to meet with the requesting attorney or agent.
- 13.1.6 If the inmate agrees to meet with the attorney or agent, the visit shall be approved and scheduled.

- 13.1.7 If the inmate does not wish to meet with the attorney or agent, the attorney or agent shall be contacted within the same 48 hour period of the initial request and informed the visit has been denied. The appropriate staff member shall ensure a Visitation Waiver, Form 911-2, is completed in accordance with Department Order #911, Inmate Visitation.
- 13.2 Agents of an Attorney Restrictions – The attorney shall understand he or she is ultimately responsible for the actions of his or her agent.
- 13.2.1 The Warden, Deputy Warden or Administrator may exercise his or her discretion in permitting an agent to meet with an inmate. Any denial shall be for good cause and the Warden, Deputy Warden or Administrator shall be prepared to provide a reason for the denial.
- 13.3 Visits Under Court Order – Persons acting under a court order shall contact the appropriate unit staff to arrange a visit with an inmate. An original certified copy of the court order shall be provided by such person to the appropriate unit staff for inclusion in the inmate's Visitation, Institutional and Master File.

IMPLEMENTATION

Wardens shall provide written direction which addresses the following, at a minimum:

- Identification of designated staff for carrying out responsibilities and processes required by this Department Order.
- Specific process for copying qualified, non-qualified, and non-legal materials.
- Specific process for submission of the Inmate Request for Paralegal Assistance and related documents to include charging for fax service.
- Process for legal resource and text check-out and monitoring, to include a specified period of time for check out.
- Allocation of space for Paralegal activities and/or storage of materials.

The assigned staff member at each institution shall notify the Legal Access Monitor of such directions, for final approval prior to implementation.

DEFINITIONS/GLOSSARY

Refer to the Glossary of Terms

ATTACHMENTS

- Attachment A, Legal Texts and Resource Material
- Attachment B, Court Forms Packets
- Attachment C, Federal Appellate/District Courts and State Appellate Courts
- Attachment D, Paralegal Assistance Request Process
- Attachment E, Qualified Legal Claims Copying Process
- Attachment F, Non-Qualified Legal Claims/Non-Legal Copying Process

FORMS LIST

902-1, Inmate Request for Paralegal Assistance
902-1S, Solicitud De Preso Para Ayuda De Paralegal
902-2, Request/Authorization for Qualified Legal Claim Copying
902-3, Paralegal Activity Log
902-4, Contract Paralegals – Unit Sign-In Log
902-7, Request/Authorization for Non-Qualified/Non-Legal Copying
902-8, Paralegal Meeting Notification
902-9, Checklist for Storage of Inmate Legal Materials

AUTHORITY

Lewis v. Casey, 116 S. Ct. 2174 (1996)

ATTACHMENT A

LEGAL TEXTS AND RESOURCE MATERIAL

The following legal texts and legal resource material may remain for use by inmates and shall be placed in the Reserve/Reference section of the General Library of each unit:

1. A complete set of Arizona Revised Statutes (non-annotated)
2. Arizona Revised Statutes (annotated), Volumes 5, 5A, 5B and 5C
3. Arizona Rules of Court - State
4. Arizona Rules of the Court - Federal
5. Federal Civil Judicial Procedure and Rules
6. Federal Criminal Code and Rules
7. A complete set of Department Orders or access to authorized computer-generated copies (General Access Department Orders only)
8. The Classification Manual
9. U.S. Code: 28 U.S.C. Section 2254
10. U.S. Code: 42 U.S.C. Section 1981 through 42 U.S.C. Section 2000e-1
11. Black's Law Dictionary
12. Rights of Prisoners 4th
13. The Law and Policy of Sentencing and Corrections 9th Ed.
14. Post-Conviction Remedies (Means)
15. U.S. Constitution (articles and amendments)
16. Arizona Legal Forms Book - Criminal Procedure.
17. Lewis v. Casey
18. Prisoner's Handbook (Rule 32) (Petitions for Post-Conviction Relief)
19. The Civil Rights of Institutionalized Persons Act (CRIPA) settlement agreement (Female units only)

Note: Any deletions or additions to the above list will be subject to the approval of the Director of the Department of Corrections.

ATTACHMENT B

COURT FORMS PACKETS

The following court documents and forms shall be available in Legal Resource Centers. The Legal Access Monitor will provide current copies to Designated Staff as needed.

1. Arizona State Courts - Self-Help Resources
2. Federal Section 1983 Forms Packet
3. Federal Petition for Writ of Habeas Corpus by a Person in State Custody Forms Packet
4. State Notice of Post-Conviction relief (Pursuant to Rule 32 of the Rules of Criminal Procedure)
5. State Notice of Appeal from Superior Court
6. State Petition for Post-Conviction Relief (Pursuant to Rule 32 of the Rules of Criminal Procedure)
7. State Request for Preparation of Post-Conviction Relief Record
8. State Court Complaint
9. Petition for Review, Arizona Rules of Criminal Procedure, Rule 31.19(a)
10. Petition for Review, Arizona Rules of Criminal Procedure, Rule 32.9(c)
11. Petition for Review, Arizona Rules of Criminal Procedure, Rule 31.19 & 32.9(g)
12. State and Federal Notice of Change of Address Forms
13. State Certificate of Compulsory Arbitration
14. State Deferral or Waiver of Court Fees and Costs (State) Forms
15. State Deferral or Waiver of Appellate Court Fees and Costs Forms
16. Mandatory Civil Cover Sheet (Maricopa County)

ATTACHMENT C

ARIZONA DEPARTMENT OF CORRECTIONS Federal Appellate/District Courts and State Appellate Courts

UNITED STATES COURTS

Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

Phoenix:

United States Ninth Circuit Court of Appeals
401 W. Washington Street
Phoenix, AZ 85003-2118
OR

P.O. Box 193939
San Francisco, CA 94119-3939

United States Bankruptcy Court
401 W. Washington Street
Phoenix, AZ 85003-2118

District Court of Arizona
United States Courthouse
401 W. Washington Street
Phoenix, AZ 85003-2118

Tucson:

District Court of Arizona
United States Courthouse
405 W. Congress Blvd
Tucson, AZ 85701-1711

STATE APPELLATE COURTS

Supreme Court of Arizona
State Courts Building
1501 W. Washington
Phoenix, AZ 85007

Phoenix:

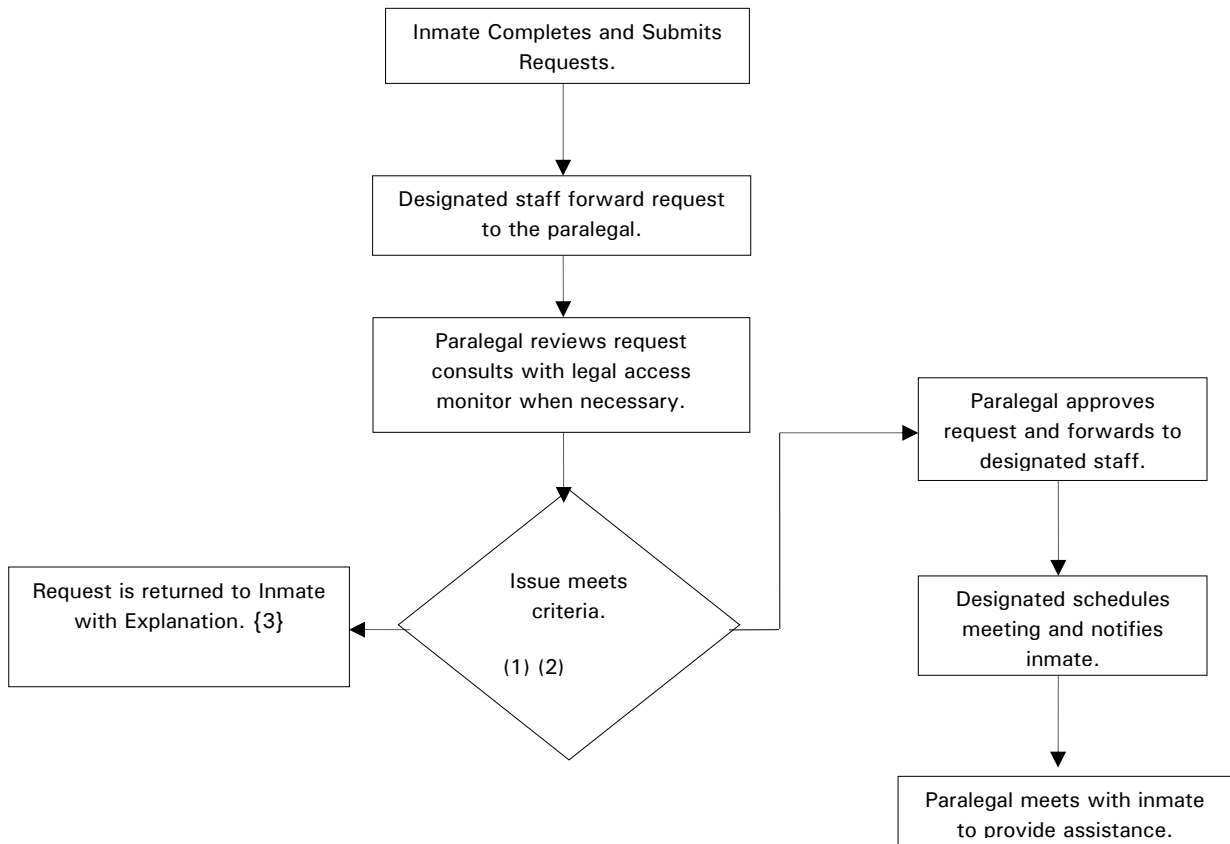
Court of Appeals Division 1
State Courts Building
1501 W. Washington, Second Floor
Phoenix, AZ 85007

Tucson:

Court of Appeals Division 2
State Office Building
400 W. Congress
Tucson, AZ 85701-1374

ATTACHMENT D

PARALEGAL ASSISTANCE REQUEST PROCESS



- 1) Qualified Legal Claim at the Initial filing stage.
- (2) If the Paralegal is unsure whether issue meets the criteria he/she will request a preliminary meeting with the inmate to discuss the issue prior to approving or denying the request.
- (3) See D0 902, section 7.0, Non-Qualified/Non-Legal Claims.

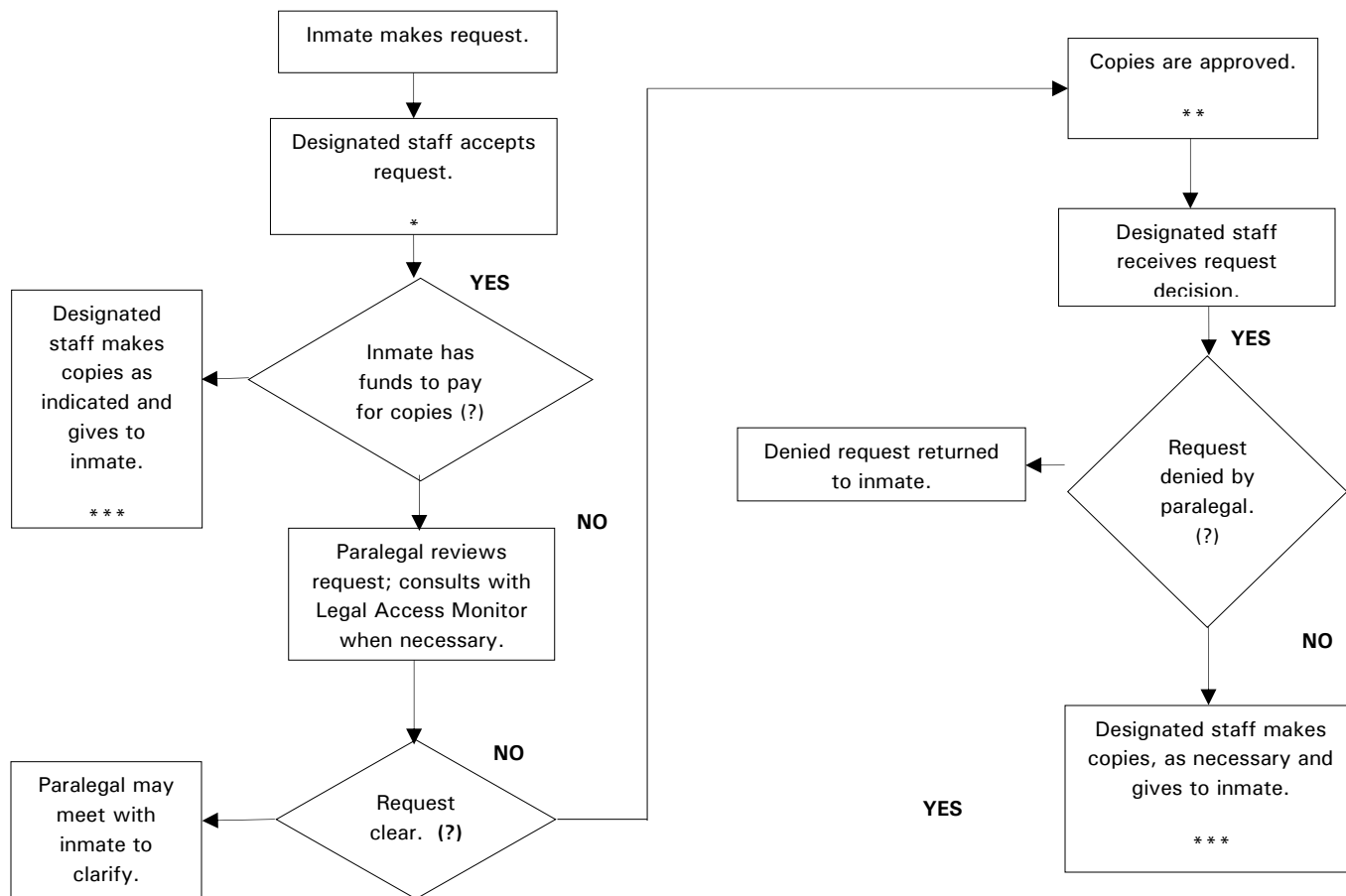
* Copy of form to inmate.

** Paralegal keeps copies of forms.

*** Copy of form to inmate, Paralegal, file, and Legal Access Monitor.

ATTACHMENT E

QUALIFIED LEGAL CLAIMS COPING PROCESS



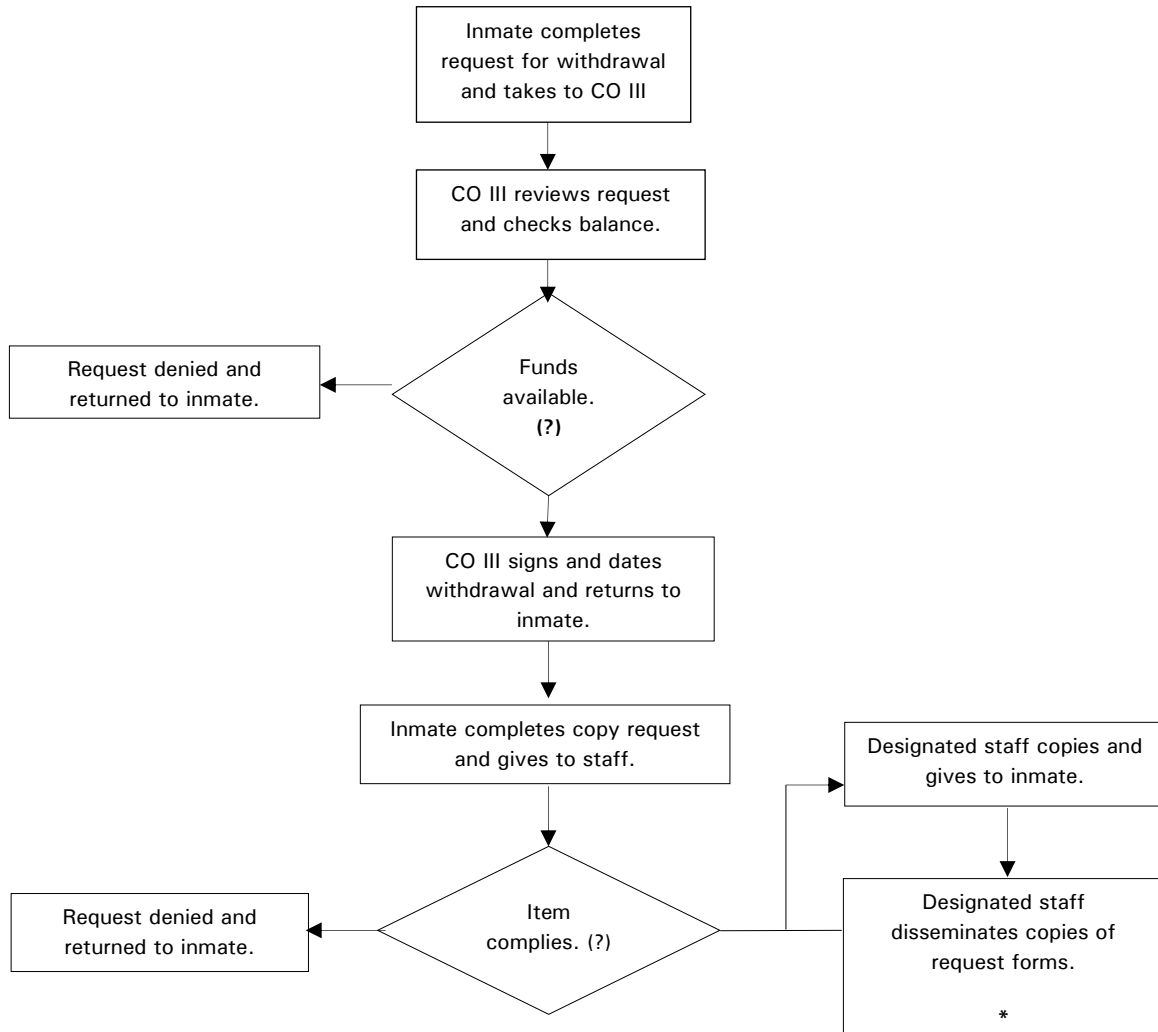
* Return one copy of the form to the inmate.

** Keep copy of the form.

*** Copy of the form to the inmate, copy to the Legal Access Monitor, copy to the file.

ATTACHMENT F

Non-Qualified Non-Legal Claim Copies



(1) Item requested for copying does not violate any requirements at prohibitions established in Department Orders or other written instructions.

* Copy of form to inmate, copy for file.