

Sec. 18-81-36. Incoming privileged correspondence

All incoming privileged correspondence shall be opened and inspected, but not read, only in the presence of the inmate addressee.

(a) **Inspection and Rejection.** If upon opening and inspecting such privileged correspondence it contains nonwritten enclosure(s), then such enclosure(s) may be examined to determine whether the delivery of such enclosure(s) would reasonably jeopardize a legitimate penological interest. If the Unit Administrator determines that delivery of the enclosure(s) would reasonably jeopardize a legitimate penological interest, then the Unit Administrator may refuse to deliver such correspondence and its enclosure(s). The sender and the inmate shall be notified in writing of the privileged correspondence rejection and the reason therefore. In no such case shall the Unit Administrator read the privileged correspondence or written enclosure(s). If the enclosure(s) is not appropriate for criminal prosecution, further investigation for violation of unit or department rules, or of the criminal law, the unread correspondence and the enclosure(s) shall be returned to the sender with a statement of the reason therefor. If the Unit Administrator reasonably believes that the enclosure(s) should be referred for criminal prosecution or investigation for violations of unit or department rules, or of the criminal law, the unread correspondence shall be sealed and forwarded in a confidential manner with the enclosure(s) to the appropriate law enforcement or other agency for investigation, together with a written statement as to the reason therefor.

(b) **Notice of Rejection.** In the event that the Unit Administrator determines that incoming privileged correspondence or enclosure(s) shall not be delivered as provided for in Subsection (a) of this Section, the inmate and the sender shall be notified in writing of the rejection and the reason therefor. The person(s) so notified may seek review in writing within 10 days thereafter from the appropriate Deputy Commissioner or designee. The Deputy Commissioner or designee shall notify in writing the person(s) of the final decision and the reasons therefor. In the event such rejection results in referral for prosecution or investigation for violation(s) of unit or department rules, or of the criminal law, the notice of rejection may be delayed until the appropriate investigation is completed.

(c) **Accidental Opening.** If privileged correspondence is opened accidentally, outside the presence of the inmate, the envelope shall be immediately stapled and the required inspection for unauthorized enclosure(s) accomplished in the presence of the inmate.

(Effective August 18, 1993)