

 <p>CD-121200</p>	<h1>NEW MEXICO CORRECTIONS DEPARTMENT</h1> <p>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always." Courage Responsibility Ethics Dedication - CREDibly serving the public safety of New Mexico</p>	
	ISSUE DATE: 03/27/89	REVIEW/REVISED: 03/17/15
	EFFECTIVE DATE: 04/03/89	
TITLE: Authorized Legal Photocopying		

AUTHORITY:

- A. Lewis v. Casey, 116 S. Ct. 2174 (1996)
- B. NMSA 1978, Section 14.2.1, Inspection of Public Records Act, as amended.
- C. Policy *CD-010100*

REFERENCES:

- A. Policy *CD-121000*

PURPOSE:

To establish guidelines for providing for photocopying of legal documents for inmates within the New Mexico Corrections Department.

APPLICABILITY:

All Department and contract staff, inmates and volunteers of the New Mexico Corrections Department.

FORMS:

None

ATTACHMENTS:

NUMBER OF COPIES TO BE MADE OF QUALIFIED CLAIMS Attachment (*CD-121201.A*)

DEFINITIONS:

- A. Designated Staff: Any department employee(s) appointed by the Education Bureau Chief to be responsible for such duties as outlined in this department policy. Designated Staff will include both Civilian Paralegals/Legal Assistants and non-paralegals trained in these policies.

- B. *Hold*: A restriction on an inmate's account or funds based upon a financial obligation owed by the inmate, which restriction remains until the obligation is paid.
- C. *Qualified Legal Claim*: In the direct appeal, any claim of error; in the Post Conviction Relief proceeding, any non-precluded claim set forth in Rule 5-802 NMRA; and in federal court, any claim of error based on a violation of the federal constitution or law. Forms include the Notice of Appeal from the District Court; Writ of Habeas Corpus, Rule 9-701 NMRA; Writ of Certiorari, Rule 12-502 NMRA; Petition for a Writ of Habeas Corpus in state or federal court; and a civil rights action or condition of confinement claim (42 U.S.C. § 1983); and a State Tort Complaint concerning conditions of confinement; Divorce proceedings (with and without children); Power of Attorney (general and for minor children); and Last Will and Testament.
- D. *Qualified Legal Materials*: Any document that meets the definitions of a Qualified Legal Claim, plus related motions, responses, discovery matters and letters to the court in connection with the qualified legal claims.

POLICY:

Photocopying services shall be available and a photocopying machine shall be located in the institutional Education departments to photocopy legal materials.

All requests for the copying of qualified legal materials shall be made to the designated staff, which shall ensure that the requested copying is qualified. Only designated staff shall make copies of qualified legal materials.

Each inmate shall be responsible for the payment of charges related to services received. The price for individual services, forms or copies shall be subject to periodic review and adjustment by the Secretary of Corrections or a designee.

All revenues on each transaction will be used to defray the costs of equipment, equipment maintenance and supplies (including toner and paper) and will be forwarded monthly to the Corrections Education Bureau.

A copy of all non-confidential policies shall be made available for review by inmates in the Reserve/Reference section of the Unit Education Resource Center, under the control of designated staff, and shall be used only in the Unit Education Resource Center, with the exception noted in this policy.



Gregg Marcantel, Secretary of Corrections
New Mexico Corrections Department

03/17/15
Date

 <p>CD-121201</p>	<p>NEW MEXICO CORRECTIONS DEPARTMENT</p> <p><i>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</i></p> <p>Courage Responsibility Ethics Dedication - CREDibly serving the public safety of New Mexico</p>	
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AUTHORITY:

Policy *CD-121200*

PROCEDURES:

A. Availability of Photocopying Services:

Photocopying services shall be available and a photocopying machine shall be located in the institutional Education departments.

1. Only requests for photocopying qualified legal materials regarding qualified legal claims shall be granted. (See Policy *CD-121001 Attachment CD-121001.C*) The **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) shall have the same effect as an Inmate Debit Memo (i.e. provides the inmate's authorization for their account to be debited for chargeable services in accordance with this policy).
2. All requests for copying legal materials shall be made to the designated staff person only (and not to caseworkers, unit managers or others). The designated staff shall ensure that the material requested for copying is qualified.

B. Qualified Legal Claims Copying

All requests for copying involving qualified legal claims shall be reviewed by designated staff prior to copying by using the following process:

1. To request photocopies, the inmate shall complete the appropriate section of a **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) 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 appendix), in person, to designated staff. Failure to attach sufficient documentation to enable designated staff to determine if documents are qualified may result in a delay. The designated staff shall deny a request that 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.

In the event that the inmate is obtaining active assistance from designated staff and has completed the pleading in the presence of designated staff, the designated staff shall complete the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) and submit it with the pleading directly for photocopying.

2. Designated staff shall sign and date the form and provide the inmate a copy of the request as a receipt. Designated staffs are not responsible to provide additional copy request receipts or to replace lost or destroyed copy request receipts.
3. Designated staff shall review the packet to determine which documents shall be copied and how many copies are to be made. Documents that violate prison rules (e.g. gang symbols, instructions regarding illegal activities, etc.) shall not be copied. These documents shall be turned over to security staff or the STIU Coordinator for further investigation.
4. If department policy compliance interpretation is needed, then designated staff shall consult with the Legal Access Monitor.
5. The designated staff shall complete the request and, within three (3) workdays of receipt, ensure the packet is qualified legal material.
6. Designated staff shall:
 - a. Contact the Inmate Accounts Office to determine the inmate's account balance to ensure that the inmate has paid for the copies or that the account has been placed on hold in accordance with this policy, (If the payment has been made or the account has been appropriately placed on hold), and make photocopies in accordance with the notations on the request form.

- 1) Photocopies shall be made; if possible, within three (3) workdays of ensuring the request is qualified. Extra time may be necessary for extensive copying requests. Maximum numbers of copies are listed in **Number of Copies to be Made of Qualified Claims** Attachment (*CD-121201.A*).
 - 2) All legal documents submitted for photocopying shall not be censored, but may be read to the extent required to establish that the contents of the document are qualified and do not contain contraband.
 - b. Refrain from photocopying any documents if it is determined that the inmate's account balance is insufficient to cover the entire service charge and any hold placed on the inmate's account for the services would cause the inmate to owe the Department an amount exceeding \$300.00 from any source.
 - c. Refrain from photocopying any documents if not qualified. Non-qualified documents include but are not limited to case law, statutes and policies from any source. The inmates shall have NMCD policies, except for confidential policies, available for review. This does not prohibit an inmate from purchasing a copy of a non-security policy from the designated staff member at a cost of \$0.50 per copied side with prepayment required. Administrative documents (e.g. grievance and response) shall not be copied unless marked as and attached as an exhibit to a qualified legal claim.
 - d. Arrange for a meeting with the inmate, if necessary.
7. Designated staff shall keep a copy of the request and:
- a. Forward a copy of the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) together with the photocopied material to the inmate.
 - b. Return the materials, above, to the inmate if the request was denied. All contraband materials will be turned over to STIU.
 - c. Forward the signed **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) to the Inmate Account Office if the material is to be photocopied.

- d. Forward a copy of the legal access log of all requests for qualified legal claim copying to the Legal Access Monitor on a weekly basis.
8. The designated staff's decision is final. Inmates may present concerns regarding legal claim copying to the Legal Access Monitor through designated staff using the **Inmate Request for Legal Access** form (*CD-121001.1*) from Policy *CD-121000*.
9. The inmate shall be responsible for payment of all copies made.

C. Charges – Qualified Legal Claims

All inmates shall be responsible for payment of services related to qualified legal claims.

1. For issues relating to qualified legal claims, the service requested shall be provided in accordance with designated staff's notation on the request.
2. If the inmate has funds available, the entire cost of the service shall be promptly deducted from the inmate's account.
3. If the inmate does not have sufficient funds available to cover the cost of the service, the inmate's account shall be placed on hold until such time as the debt is paid, provided that, no inmate's account shall be placed on hold for any legal claim photocopying if the services amount will cause the inmate to owe the Department more than \$300.00. The \$300.00 limit is applicable whether or not the owed amount is related to legal claim photocopying or any other debt that the inmate owes to the Department.
4. If an inmate has insufficient funds to cover the services charge and a hold to cover the cost would result in the inmate owing the Department more than \$300.00, the **Request/Authorization for Qualified Legal Claim Copying** shall be denied. Designated staff shall mark the request denied due to insufficient funds and return it along with all accompanying materials to the inmate.
5. Chargeable services include, but are not limited to:
 - a. Qualified legal claim photocopying, including required court forms, other attachments or other documentation. (.25 per copied side)
 - b. Notary services related to qualified legal claims (\$1.00 per notary).

- c. Court forms listed on the **Legal Texts and Resource Materials** Attachment (*CD-121001.B*). (There is no charge for the initial blank form requested, or for one subsequent blank request on the same pleading.)
 - d. Purchase of non-security policy. (.50 per copied side)
6. An inmate who is requesting any service relating to qualified legal claims shall complete and deliver to designated staff the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) in the amount necessary to completely pay the requested service at the time designated staff perform the service or arrange for delivery of the service. For photocopies and notaries, the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) shall have the same effect as an Inmate Debit Memo (i.e. provides the inmate's authorization for their account to be debited for chargeable services in accordance with this policy).
7. Designated staff shall submit the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) to Facility Inmate Accounts when the service has been provided to the inmate. Designated staff shall indicate on the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) that the service is for qualified legal claims.
8. Facility Inmate Accounts shall:
 - a. Upon receipt of the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*), determine if the amount stated in the request form exceeds the amount of funds available in the inmate's account.
 - 1) If sufficient funds are available, ensure that the inmate's account is debited or that the inmate's account is placed on hold.
 - 2) If the inmate has insufficient funds to cover the request and a hold for the amount would cause the inmate to owe the Department more than \$300.00, the Inmate Accounts Office shall refrain from placing a hold on the account; and immediately notify designated staff of the funds deficiency, advise them that a hold will not be placed on the account, and inform them not to proceed with the legal claim photocopying.
 - b. Ensure that the **Request/Authorization for Qualified Legal Claim Copying** form (*CD-121001.2*) serves as documentation for the hold or request for payment.

- c. Ensure that funds collected are deposited in the appropriate account in accordance with New Mexico Corrections Department policy.
- 9. The charge for any document, 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) is \$.20 per printed side for all copies made.
- 10. The charge for Notary Public services shall be \$1.00 per original notarized document, pursuant to *NMSA 14-12A-16*. Inmates receiving Notary Public services in a State or Private facility will be charged the \$1.00 fee even if the document to be notarized is related to a qualified legal claim.
- 11. The price charged for individual services, forms or copies should be subject to periodic review and adjustment by the Secretary of Corrections or his designee.

D. Distribution of Photocopy Costs Collected:

All revenues on each transaction will be used to defray the costs of equipment, equipment maintenance, and supplies (including toner and paper) and will be forwarded monthly to the Corrections Education Bureau.



Gregg Marcantel, Secretary of Corrections
New Mexico Corrections Department

03/17/15
Date

NEW MEXICO CORRECTIONS DEPARTMENT
NUMBER OF COPIES TO BE MADE OF QUALIFIED CLAIMS

§2254 FEDERAL HABEAS CORPUS	ORIGINAL AND 2 COPIES FOR THE COURT (THE COURT WILL RETURN A FILE COPY TO THE INMATE FOR HIS RECORD.)
§1983 FEDERAL CIVIL RIGHTS	ORIGINAL AND 2 COPIES FOR THE COURT (THE COURT WILL RETURN A FILE COPY TO THE INMATE FOR HIS RECORD.)
NEW MEXICO HABEAS CORPUS	ORIGINAL AND 2 COPIES FOR THE COURT AND 1 COPY FOR EACH DEFENDANT (THE COURT WILL RETURN A FILE COPY TO THE INMATE FOR HIS RECORD.)
NEW MEXICO TORT CLAIM	ORIGINAL AND 2 COPIES FOR THE COURT AND 1 COPY FOR EACH DEFENDANT (THE COURT WILL RETURN A FILE COPY TO THE INMATE FOR HIS RECORD.)
NEW MEXICO COURT OF APPEALS	BRIEF IN CHIEF – ORIGINAL AND 6 COPIES. ALL OTHER PLEADINGS – ORIGINAL AND 3 COPIES
DIVORCE FORMS	ORIGINAL AND 3 COPIES
POWER OF ATTORNEY	ORIGINAL AND 1 COPY
LAST WILL AND TESTAMENT	ORIGINAL AND 1 COPY