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<p>POLICY AND ADMINISTRATIVE PROCEDURES Manual of Policies and Procedures</p>				

Title INMATE TRUST FUND

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 4-10-10-1 IC 4-24-6-1 <i>et seq.</i> IC 11-8-2-5(a)(9) IC 11-10-7-5 IC 11-10-8-6 IC 11-10-12-1(a)(1) IC 11-10-12-2(a)(1) & (2) IC 11-10-12-3 IC 11-10-15-1	00-01-102 02-01-101 02-01-103 02-01-104 02-01-106 02-01-108 02-02-102	ACA: ACI: 4-4025, 4-4027, 4-4031, 4-4033, 4-4034, 4-4044, 4-4045, 4-4047 JTS: 1B-07, 1B-19, 1B-20, 1B-21, 5H-08 CO: 2-CO-1B-05, 2-CO-1B-14

I. PURPOSE:

The purpose of this policy and administrative procedure is to present guidelines for the initiation, maintenance, use and review of the accounts established to hold in trust offender monies.

II. POLICY STATEMENT:

The Department of Correction shall establish an Inmate Trust Fund account for all offenders confined in Department facilities and shall deposit all monies held in trust for offenders in a federally insured depository, in accordance with applicable statutes.

Any personal funds that an offender brings into the Department or that are deposited with the Department for the use and benefit of the offender shall be held in trust in the offender's Inmate Trust Fund account. The Department may restrict the sources of funds sent to offenders and the disbursements that offenders may make.

The Department shall maintain individual records for each offender's account in order to ensure exact accounting of all receipts and disbursements for funds held in trust. A system of review shall be used to ensure compliance with all laws, rules, accepted accounting procedures and proper accounting of all funds received or disbursed.

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When an offender is released from the Department, the offender shall be given all funds that are available in the offender’s Inmate Trust Fund account. Any funds not available at the time of the offender’s release shall be sent to the offender as soon as possible.

In addition to the funds generally available to the offender, the offender shall be given all funds in the offender’s Re-Entry Administrative Account at the time of release from the Department. These funds shall be included with the offender’s Inmate Trust Fund at the time of the offender’s release.

III. DEFINITIONS

For the purposes of these administrative procedures, the following definitions apply:

- A. **BUSINESS ADMINISTRATOR:** The administrator at a facility responsible for the coordination and control of fiscal recording and processing.
- B. **COURT ORDERED JUDGMENT:** A court order demanding payment of funds from an offender's Inmate Trust Fund account.
- C. **HOLD ON ACCOUNT:** A restriction on an offender's Trust Fund account prohibiting the withdrawal of funds, except for the withdrawal of funds in accordance with these administrative procedures.
- D. **IMMEDIATE FAMILY MEMBER:** The immediate family of an offender is his/her father, mother, siblings, spouse, children, grandparents, grandchildren, aunts, uncles, and legal guardians including those with a “step,” “half” or adoptive relationship and those persons with the same relationship to the offender's spouse.
- E. **INDIGENT OFFENDER:** An offender who has a Trust Fund account balance of less than fifteen dollars (\$ 15.00) (not including any monies in the offender’s Re-Entry Administrative Account) on the day of request and has not had a total of more than fifteen dollars (\$ 15.00) credited to the Trust Fund account (not including the offender’s Re-Entry Administrative Account) in the preceding thirty (30) days.
- F. **INMATE TRUST FUND:** The fund established by IC 4-24-6-1 containing money held for an offender while incarcerated in a Department facility or a contract facility housing offenders committed to the Department.

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- G. **MEDICAL CO-PAYMENT:** The costs assumed by an offender for the provision of Health Care related services or goods while incarcerated in a Department or contract facility.
- H. **RE-ENTRY ADMINISTRATIVE ACCOUNT:** A special savings-type account in the offender's Inmate Trust Fund account comprised of a percentage of monies earned by the offender through a work assignment or employment which will be maintained to provide funds to the offender upon his/her release from the Department.

IV. INITIATION OF THE OFFENDER ACCOUNT AT AN INTAKE UNIT:

All monies that accompany an offender to an intake unit shall be receipted. State Form 9415, RECEIPT TRUST FUND (manual version) (ATTACHMENT I), or State Form 9414, RECEIPT TRUST FUND (automated version) (ATTACHMENT II), shall be used for this purpose. These monies shall be placed in the Inmate Trust Fund account under the offender's name. During the initial orientation at the intake unit, all adult offenders shall be presented with State Form 3494, LIMITED POWER OF ATTORNEY, (ATTACHMENT III) and be requested to sign this form. The purpose and necessity of this form shall be explained to the offender. If the offender refuses to sign this form, monies - to include state pay and money sent in to the offender - shall be posted to the offender's Inmate Trust Fund account; however, no money shall be disbursed from the offender's Inmate Trust Fund account except for court ordered payments, restitution and the purchase of hygiene and over-the-counter medications from the commissary. It shall not be necessary for the offender to sign any other "Limited Power of Attorney" forms during the period of confinement in a departmental facility. Juveniles are not required to sign State Form 3494 due to their legal status; however, during orientation juveniles shall be advised of the Inmate Trust Fund and its operation.

When the offender's Inmate Trust Fund account is established, the facility shall ensure that the offender is advised of the Re-Entry Administrative Account and that any monies set aside in this account will be a part of the Inmate Trust Fund; however, the offender will not be allowed to access these monies until the offender is released from the Department. Only funds obtained by the offender through a work assignment shall be placed in the Re-Entry Administrative Account.

When an offender is transferred from an intake unit to another facility or from one facility to another, the receiving facility shall establish an Inmate Trust Fund account for the offender as soon as possible. Any funds received with the offender shall be deposited in the offender's Inmate Trust Fund account in accordance with these administrative procedures.

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Operational procedures shall specify the manner in which the above actions are taken.

V. RE-ENTRY ADMINISTRATIVE ACCOUNT:

In order to assist adult offenders at the time of their release, the Department shall establish a Re-Entry Administrative Account for all adult offenders. However, offenders whose Earliest Possible Release Date (EPRD) is after the date when the offender would be 80 years of age are not eligible for a Re-Entry Administrative Account, unless:

- The offender’s appeals have not been exhausted;
- The Department determines that the offender may have a Re-Entry Administrative Account; and,
- The offender agrees to have a Re-Entry Administrative Account.

If a Re-Entry Administrative Account is established for these offenders, the offender shall be required to adhere to all Department procedures regarding the operation and use of the Re-Entry Administrative Account.

When an offender is provided a work assignment (including a PEN Products or joint venture work assignment or obtains employment in a Department Community Re-Entry Center), the offender shall be advised that 15% of the offender’s earnings, after all required deductions have been made, from the work assignment will be placed in the offender’s Re-Entry Administrative Account. Only funds derived from a work assignment (i.e., state pay for a facility work assignment, PEN Products pay or pay from a private employer whether through joint venture work program or a Work Release employer) shall be placed in the Re-Entry Administrative Account. (NOTE: Monetary gifts, donations, checks or money orders from other sources, such as retirement checks, tax refund checks, etc., placed in the offender’s Inmate Trust Fund or monies the offender may have in other private accounts are not subject to the 15% deduction for the Re-Entry Administrative Account.) This account shall be mandatory for all offenders who have a work assignment and receive pay for that assignment, except as indicated above.

The offender shall be advised that 15% of his/her earnings from a work assignment shall be deducted from the offender’s earnings after all other statutorily required deductions, including court fees and restitution, are taken. This 15% of the offender’s earnings shall be placed in the Re-Entry Administrative Account. (NOTE: The 15% deduction shall not be taken from any earnings that are credited to the offender’s Inmate Trust Fund account after the offender has been released from the Department.)

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The offender's earnings shall be deposited in the offender's Inmate Trust Fund and subsequently distributed in the following order:

A. OFFENDERS WITH FACILITY WORK ASSIGNMENTS AND PEN PRODUCTS WORK ASSIGNMENTS:

1. Court ordered costs or fines imposed as a result of conviction of an offense under Indiana law, unless the costs or fines are being paid by other means.
2. Restitution either by a court or by a Disciplinary Hearing.
3. Medical Co-payments.
4. Fifteen percent (15%), if available, placed in the offender's Re-Entry Administrative Account. (NOTE: The 15% shall be based upon the offender's earnings after the above deductions are made and shall not be deducted until the above deductions are made from the offender's Inmate Trust Fund account. After the above deductions are made from the offender's earnings, 15% shall be deducted from any remaining funds and this amount shall be placed in the Re-Entry Administrative Account.)
5. Any amount remaining shall be placed in the offender's Inmate Trust Fund for the offender's personal use.

B. OFFENDERS WITH JOINT VENTURE/PRIVATE EMPLOYER WORK ASSIGNMENTS WITHIN A FACILITY:

1. Not less than twenty percent (20%) of the offender's gross earnings to be given to the offender or retained by the Department. If retained by the Department, the amount, with accrued interest if interest on the amount is earned, must be returned to the offender not later than at the time of the offender's release on parole or discharge.
2. State and federal income taxes and Social Security deductions.
3. The expenses of room and board, as fixed by the Department and the Budget Agency, in facilities operated by the Department, or, if the offender is housed in a facility not operated by the Department, the amount paid by the Department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the Department and the appropriate authority. The fee shall be forty percent (40%) of the offender's weekly earning less the deductions listed in Procedures B. 1. and B. 2.

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NOTE: Subsistence fees and Violent Crime Victim's Compensation fees shall not be collected from monetary gifts or monies transferred from other facilities; however, subsistence fees and Violent Crime Victim's Compensation fees are to be deducted from Workers' Compensation benefits.

4. The support of the offender's dependents, when directed by the offender or ordered by the court to pay this support. If the offender's dependents are receiving welfare assistance, the appropriate local office of the division of family resources or welfare department in another state shall be notified of these disbursements.
 5. Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.
 6. Fifteen percent (15%) shall be placed in the offender's Re-Entry Administrative Account. (NOTE: The 15% shall be based upon the offender's earnings after the above deductions are made and shall not be deducted until the above deductions are made from the offender's Inmate Trust Fund account. After the above deductions are made from the offender's earnings, 15% shall be deducted from any remaining funds and this amount shall be placed in the Re-Entry Administrative Account.)
 7. Any remaining amount shall be given to the offender or retained by the Department in accord with subsection B. 1.
- C. OFFENDERS WORKING FOR PRIVATE EMPLOYERS IN A WORK RELEASE PROGRAM:
1. State and federal income taxes and social security deductions not otherwise withheld shall be calculated, but not deducted from the earnings, for the purpose of determining further required deductions.
 2. The cost of membership in an employee organization required by the offender's employment in a Work Release program.
 3. Ten percent (10%) of the offender's gross earnings, to be deposited in the Violent Crime Victim's Compensation Fund.
 4. Not less than fifteen (15%) of the offender's gross earnings, if that amount of the gross is available after the above deductions, must be returned with accrued interest to the offender not later than at the time of release on parole or discharge. The payment of the fifteen percent (15%) will occur

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after ten (10) working days from the date of deposit of the offender's check to allow clearance of the check by the bank.

6. The expense of room and board (subsistence fees), as fixed by the Department and the State Budget Agency, in facilities operated by the Department, or, if the offender is housed in a facility not operated by the Department, the amount paid by the Department to the operator of the facility or other appropriate authority for room and board. The fee shall be forty percent (40%) of the offender's weekly earning less the deductions listed in Procedures C. 1. and C. 2.

NOTE: Subsistence fees and Violent Crime Victim's Compensation fees shall not be collected from monetary gifts or monies transferred from other facilities; however, subsistence fees and Violent Crime Victim's Compensation fees are to be deducted from Workers' Compensation benefits.

7. Court ordered costs or fines imposed as a result of conviction of an offense under Indiana law, unless the costs or fines are being paid by other means.
8. Restitution ordered by a court or a Disciplinary Hearing.
9. Fifteen percent (15%) shall be placed in the offender's Re-Entry Administrative Account. (NOTE: The 15% shall be based upon the offender's earnings and shall not be deducted until the above deductions are made from the offender's Inmate Trust Fund account. After the above deductions are made from the offender's earnings, 15% shall be deducted from any remaining funds and this amount shall be placed in the Re-Entry Administrative Account..)
10. An amount approved by the Facility Head to Pay for the support of the offender's dependents when directed by the offender or ordered by the court.
11. Pay to the victims or others for any unpaid obligations of the offender with the written consent of the offender and the approval of the Facility Head. If the offender's dependents are receiving welfare assistance, the appropriate welfare department shall be notified of these disbursements
12. Any remaining amount shall be given to the offender or retained by the Department in accordance with Procedure C. 4.

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The offender shall not be given access to the funds in his/her Re-Entry Administrative Account until the offender is released from the Department, either to Parole or Probation, to a Community Transition Program (CTP), by court order releasing the offender from the custody of the Department through a modification of the offender’s sentence or by discharge. The funds in the Re-Entry Administrative Account shall be returned to the offender at the time of his/her release along with any other funds due the offender from the Inmate Trust Fund account.

In order to assist the offender in planning for his/her release and re-entry into the community, during each Re-Entry Accountability Plan (RAP) review, staff shall review any Financial Responsibility Plan (FRP) that has been developed for the offender. Staff shall indicate on the FRP the total amount of funds currently in the offender’s Inmate Trust Fund account, the amount of funds available to the offender in the offender’s Inmate Trust Fund and the amount of funds in the offender’s Re-Entry Administrative Account. The offender’s FRP shall be available for review on OCMS.

VI. DETERMINING INDIGENT STATUS OF OFFENDER:

When an offender submits a request (e.g., for legal copying, legal mail for an indigent hygiene kit, etc.) and indicates that he/she is indigent, designated staff shall review the offender’s Inmate Trust Fund account to determine whether the offender meets the criteria for being considered indigent. In order to be indigent, an offender must have a balance in his/her Inmate Trust Fund account of less than \$ 15.00 on the date of the request AND must not have had more than \$ 15.00 credited to his/her Inmate trust fund account within the last 30 days. When making this determination, funds in the offender’s Re-Entry Administrative Account or funds placed in that account during the last 30 days shall not be considered. Only funds in the offender’s regular Inmate Trust Fund account to which the offender may have access shall be considered.

An offender who does not meet the criteria for indigent status, but who does not have sufficient funds in his/her Inmate Trust Fund account shall be treated as an indigent offender for purposes of providing legal copies, legal mail and personal hygiene supplies, in accordance with the administrative procedures for Policy 00-01-102, “Offender Access to the Courts,” and Policy 02-01-104, “Offender Clothing, Grooming and Personal Hygiene.” A “hold” may be placed on the offender’s account requiring the offender to pay for any copying costs or postage for legal mail that was provided to the offender when the offender had insufficient funds to cover these costs. Under no circumstances shall funds be withdrawn from the offender’s Re-Entry Administrative Account to pay for these items or to reimburse the facility for the cost of copying or postage.

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Whenever funds are taken from an offender’s account to pay court filing fees, restitution, etc., the facility shall attempt to allow the offender to retain at least \$ 5.00 in the Inmate Trust Fund account in order to purchase personal hygiene items and over-the-counter medications.

VII. MONIES IN PHYSICAL POSSESSION OF OFFENDER:

After monies are received from an offender at an intake unit or other facility, all monies in the physical possession of an offender shall be considered prohibited property and shall be confiscated. Any monies confiscated shall not be placed in the offender's Inmate Trust Fund Account. Instead, the offender may be charged with a disciplinary violation and the money deposited into the facility's Inmate Recreation Fund Account.

Community Re-Entry Centers and Level One facilities that allow offenders to possess money in accordance with the facility's operational procedures shall be exempt from this administrative procedure. However, if an offender is found to be in possession of more money that authorized by the facility’s operational procedures, the excess monies may be confiscated and a disciplinary violation prepared if it appears that the offender has obtained these monies in violation of the facility’s rules and operational procedures.

VIII. INTEREST BEARING ACCOUNTS AND CHECKING ACCOUNTS:

Offenders committed or ordered to the Department who possess an interest-bearing account or checking account at the time of intake may keep such accounts and shall be entitled to all interest. The check book, saving passbook, certificate of deposit book, customer copy of money orders or cashier's checks or other instrument of transfer shall be prohibited property and may be stored by the facility or sent to a friend or relative of the offender at the offender's request. Such items may be obtained for use only upon approval of the Facility Head. Approval for such requests shall be based on the security needs of the facility.

Offenders may not open accounts other than the Inmate Trust Fund Account without approval of the Facility Head. Approval for such requests shall be based on:

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

The opening of an account with a bank shall be subject to the bank’s requirements and applicable laws for opening a bank account. With the exception of offenders

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assigned to a Community Re-Entry Center, an offender shall not be released to go to a bank to open an account. The Department or facility shall not be responsible for a bank refusing to open an account due to the offender not being permitted to go to the bank to do so.

Possession of an interest bearing account or checking account shall not be considered an offender business activity as determined by Policy 02-01-116, "Offender Business Activities."

In no instance shall two (2) or more offenders open a joint account. With the approval of the Facility Head or designee, an offender may request that an immediate family member or a friend open the bank account on his/her behalf. Under no circumstances shall a staff member or volunteer in the Department be a co-signatory on an account with an offender. This procedure shall apply to all offenders under the care, custody and control of the Department.

Operational procedures shall specify: (1) the manner in which an offender may open such accounts; (2) the manner in which access is obtained to these accounts; and, (3) the notification and accounting procedures to be followed for identifying interest entries and all other deposits and withdrawals.

IX. FINANCIAL TRANSACTIONS BETWEEN STAFF/VOLUNTEERS AND OFFENDERS:

Financial transactions between offenders shall not be permitted without the prior written approval of the Facility Head(s). Offenders found to be attempting or completing financial transactions, including the sending of monies from one offender to another or the sending of monies from the family/friends of one offender to another, shall be subject to disciplinary action in accordance with the administrative procedures for Policy 02-04-101, "The Disciplinary Code for Department of Correction Offenders." Any such monies confiscated by a facility shall be returned to the sender, if the sender is not an offender and the name and address of the sender is available. The monies shall be deposited in the Inmate Recreation Fund if the sender is an offender or the sender's name and address cannot be determined.

Financial transactions between staff or volunteers and offenders, other than those transactions authorized in these or other administrative procedures, shall be strictly prohibited without the prior written approval of the Facility Head of the facility housing the offender and, if the facility where the staff person is employed or the volunteer provides services is different, the Facility Head of that facility. In making a decision regarding such transactions between staff or volunteers and offenders, the Facility Head(s) shall review the reason for such transaction and the potential impact on the safety, security and integrity of the facility. If the

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financial transaction is approved, the Facility Head shall provide a written approval to the staff person or volunteer and the offender, as well as placing a copy of the approval in the offender’s facility packet.

X. SOURCES OF FUNDS:

Monies received for an offender may come from the following sources:

- A. The offender, upon his/her initial arrival at a Department intake unit;
- B. Gift/donation from immediate family or friends on the offender’s Visitors’ List;
- C. State pay or pay from an approved work program/assignment (e.g. PEN Products, joint ventures, Community Re-Entry employer, etc.);
- D. Facility approved program participation (e.g. arts, crafts, etc.);
- E. Another facility upon the offender's inter-facility transfer; or,
- F. Other sources, such as pension checks, government checks, legal settlements, inheritances, etc., as approved by the Facility Head.

Offender solicitation of funds shall be in accordance with the administrative procedures for Policy 02-01-103, “Offender Correspondence.”

The Facility Head of a juvenile facility shall determine whether money, including cash, may be left by visitors or shall be sent through the mail.

Money received at an adult facility from a source outside the Department shall be in the form of a postal money order, certified or cashier's check or government check. Additionally, money may be placed in the offender’s Inmate Trust Fund account through electronic means, such as a direct deposit from an employer, or through other approved electronic transfers of funds, such as through a contractual clearinghouse. Any funds received by way of a non-governmental check or money order that are approved by a facility shall be deposited and placed in a hold status for up to ten (10) working days to ensure the validity of the instrument. Cash may be accepted in the following circumstances:

- A Department Intake Unit may accept cash upon an offender's arrival; and,
- Community Re-Entry Center Facility Heads may authorize the acceptance of cash from an offender's employer.