
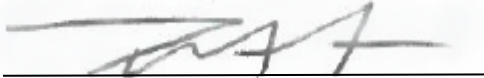


POLICY TITLE: PRISONER TELEPHONE SYSTEM		PAGE <u>1</u> of <u>13</u>
POLICY NUMBER: 21.3		
CHAPTER 21: PRISONER COMMUNICATION		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VII
	EFFECTIVE DATE: May 14, 2002	LATEST REVISION: June 13, 2019

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403 and Title 16.

II. APPLICABILITY

All Departmental Adult Facilities

III. POLICY

It is the policy of the Department of Corrections to permit prisoners reasonable access to telephones as a means to maintain ties with the community.

Contracts involving telephone services for prisoners shall comply with all applicable state and federal regulations and shall be based on rates and surcharges that are commensurate with those charged to the general public for like services, with any deviation reflecting actual costs in the provision of services, including any necessary security measures, and the purpose of generating funds for deposit into the facilities' prisoner benefit accounts.

IV. DEFINITIONS

None

V. CONTENTS

- Procedure A: Prisoner Telephone System, General
- Procedure B: Privileged Phone Calls
- Procedure C: Indigent Prisoner Phone Calls
- Procedure D: Blocking of Numbers and Termination of Calls
- Procedure E: Suspension and Restriction of Telephone Privileges
- Procedure F: Monitoring of Prisoner Telephone Calls
- Procedure G: Appeals and Grievances

VI. ATTACHMENTS

- Attachment A: Prisoner Telephone System Language Preference
- Attachment B: Prisoner Telephone System Legal Call Number List
- Attachment C: Prisoner Phone Call Allowance Application
- Attachment D: Authorization to Monitor Communications (paper/fillable)
- Attachment E: Communications Monitoring Record (paper/fillable)

VII. PROCEDURES

Procedure A: Prisoner Telephone System, General

1. The Chief Administrative Officer, or designee, of each facility shall implement practices to provide prisoners with reasonable access to the prisoner telephone system, in accordance with Department policy and written facility specific practices.
2. Prisoners shall not be permitted to use credit or debit cards, calling cards, call forwarding, three way calling, or conference calling.
3. Prisoners shall not be permitted to make calls on electronic communication devices, including, but not limited to, a cell phone, tablet, computer, or any other device containing a means of internet access or capable of receiving or transmitting information electronically, except for facility provided video visitation, if applicable.
4. Prisoners shall not be permitted to make calls to toll free numbers, except for toll free numbers authorized by the Commissioner, or designee (e.g., PREA hotline, statewide sexual assault helpline).
5. The facility Chief Administrative Officer, or designee, shall make available specialized services or equipment for providing telephone access to any prisoner in need of a reasonable accommodation due to a physical disability.
6. In the event of an emergency involving the family of a prisoner, if facility staff verifies the emergency exists by contacting the appropriate agency (e.g., law enforcement, fire, rescue, hospital, nursing home, school, funeral home, etc.), the prisoner's case manager, or other designated staff, shall notify the prisoner and may allow a special phone call, unless one of the circumstances for blocking the phone number is known to exist as set out in Procedure D. The appropriate staff shall be notified in order to monitor the prisoner's reaction to the situation and provide any necessary follow up with the prisoner.
7. In addition, a prisoner's case manager may allow a special phone call for programming or release planning purposes, unless one of the circumstances for blocking the phone number is known to exist as set out in Procedure D.
8. Unless otherwise authorized by the facility Chief Administrative Officer, or designee, all other prisoner telephone calls shall be placed through the prisoner

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telephone system.

9. The facility Chief Administrative Officer, or designee, shall develop a telephone schedule. All telephone calls placed through the prisoner telephone system shall be made during the authorized times.
10. At medium or higher security facilities, there is a limit on the duration of phone calls placed through the prisoner telephone system by general population prisoners to 30 minutes, which may be implemented through an automatic cut-off time
11. Prisoners on protective custody status shall be provided access to phone calls similar to general population prisoners, except to the extent that the calls must be limited consistent with reasonable precautions designed to protect safety, security or orderly management of the facility.
12. For a prisoner on emergency observation status, administrative segregation status, or disciplinary segregation status, or housed in the Maine State Prison's Administrative Control Unit, the number of telephone calls and the duration of telephone calls may be further limited.
13. Otherwise, limits may not be placed on the number or duration of phone calls unless facility staff determines it is necessary to allow other prisoners reasonable access to the prisoner telephone system.
14. Except for indigent phone calls made in accordance with Procedure C, the facility shall not be responsible for costs associated with calls made through the prisoner telephone system, regardless of whether a call is successfully completed or not. A prisoner who experiences a problem completing a phone call may submit a trouble report form to designated staff.
15. During facility orientation, prisoners shall be provided information concerning the facility's telephone schedule and rules. Prisoners shall also be informed that withdrawals for phone calls placed through the prisoner telephone system are automatically made from the prisoner's individual phone account and shall be provided information about sample call rates.
16. During facility orientation, prisoners shall be informed of the possibility of phone calls being monitored. The phone rules and a notice stating that phone calls are subject to being listened to and/or recorded, except privileged calls, shall also be included in the prisoner handbook.
17. The Chief Administrative Officer, or designee, of each facility shall post signage approved by the Department's Director of Operations, or designee, adjacent to all prisoner telephones, including phones in visit booths, stating that phone calls are subject to being listened to and/or recorded, except for privileged calls.

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18. The prisoner telephone system shall include a recorded warning of the possibility of phone calls, except privileged calls, being monitored before the recipient accepts the call.
19. During facility orientation, each prisoner shall be asked whether he or she wishes to designate a language preference other than English for the recorded warning using Prisoner Telephone System Language Preference form (Attachment A). If the prisoner wishes to designate such a language preference, he or she shall be instructed to submit the form to his or her case manager or other designated facility staff.
20. A prisoner may request at any time that a language preference for the recorded warning be changed by submitting a new form to his or her case manager or other designated facility staff.
21. A prisoner shall not be allowed to make phone calls to a Department staff member, volunteer, or student intern unless approved by the Chief Administrative Officer of the facility where the prisoner is housed and, if the person works or volunteers elsewhere, unless also approved by the facility Chief Administrative Officer, or designee, Regional Correctional Administrator, or designee, or Central Office supervisor, as applicable. The person shall comply with Department Policy 3.5, Code of Conduct in all respects.
22. The Chief Administrative Officer, or designee, shall determine the extent of telephone privileges for all prisoners who are housed outside the facility, e.g., in hospitals, nursing homes, half way houses, etc.
23. All funds generated from the prisoner telephone system shall be deposited in the facility prisoner benefit account.

Procedure B: Privileged Phone Calls

1. A legal phone call (also called a privileged phone call) is a call concerning a legal matter involving a prisoner between that prisoner and any of the following:
 - a. attorney, paralegal, or private investigator;
 - b. court clerk's offices;
 - c. Maine Human Rights Commission; and
 - d. legal advocacy organizations, including, but not limited to: American Civil Liberties Union of Maine, Maine Equal Justice Partners, GLBTQ Legal Advocates & Defenders (GLAD), Disability Rights Maine, NAACP Legal Defense Fund, and the National Lawyers Guild.
2. During initial orientation, each prisoner shall be asked to designate, in writing, those names and numbers to which the prisoner wishes to make legal telephone calls. A prisoner may designate up to ten (10) legal call numbers, using the Prisoner Telephone System Legal Call Number List (Attachment B). If the prisoner wishes to designate legal call numbers, he or she shall be instructed to

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submit the form to his or her case manager or other designated facility staff.

3. The prisoner's case manager or other designated facility staff shall verify each attorney name and number on the list by using the Maine Bar Directory or the website for the Maine Board of Overseers of the Bar. If the attorney name and number cannot be verified in this way, but the prisoner says the attorney is licensed out of state, the staff shall contact the relevant jurisdiction's attorney licensing board for verification.
4. For a private investigator, a court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization, the staff shall use an appropriate verification method.
5. As necessary, the staff shall contact the Department's legal representative in the Attorney General's office for assistance with the verification process.
6. Once the prisoner's legal phone call number(s) are verified, the case manager or other designated facility staff shall mark the number(s) as privileged for that prisoner in the Department's phone data base.
7. A prisoner who intentionally designates as a legal call number a number that does not belong to an attorney, paralegal, private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization as defined above may be subject to suspension or restriction of telephone privileges, discipline, or other appropriate action.
8. A prisoner may request at any time that a name and number be added to or deleted from the prisoner's legal call number list by submitting a new form to his or her case manager or other designated facility staff. If a requested addition would cause the list to exceed the limit, the prisoner must request a deletion to bring the request within the limit.
9. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization on a prisoner's legal call number list may submit a written request to be removed from the list and, if requested, the number shall be blocked. An attorney, paralegal, or private investigator, court clerk's office, the Maine Human Rights Commission, or a legal advocacy organization may be reinstated to the prisoner's list upon written request by the prisoner and the person or organization previously on the list.
10. A phone call between a prisoner and the toll-free statewide sexual assault helpline concerning a complaint of sexual misconduct shall be treated as a privileged phone call.
11. The length of privileged phone calls shall not be limited unless staff determines it is necessary to allow other prisoners reasonable access to the prisoner telephone system. All other rules governing prisoner phone calls shall apply.
12. Privileged phone calls made on the prisoner phone system are confidential.

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Under no circumstances may any Department staff intentionally record or listen to the conversation.

13. If it is discovered that a person has used a legal phone call to communicate about anything other than a legal matter involving the prisoner, or it is otherwise discovered that the person's relationship with the prisoner is no longer a professional one, that person's number shall be deleted from the prisoner's legal call number list and shall no longer be designated as privileged in the Department's phone data base.
14. If a prisoner is allowed to make a privileged phone call on a staff phone, the prisoner shall be informed that the call is not confidential and may be overheard because staff will be present during the call.

Procedure C: Indigent Prisoner Phone Calls

1. For the purposes of this policy, except as set out below, if a prisoner has no more than \$10.00 combined in his or her phone account or general account at the facility, excluding a personal savings escrow account, after obligations have been deducted, he or she is considered indigent and is eligible for a phone call allowance.
2. If a prisoner has spent more than \$20.00 for commissary items within in the last thirty (30) days, the prisoner is not considered indigent and is not eligible for a phone call allowance.
3. If a prisoner is known to have an outside bank account or investments, the prisoner is not considered indigent and is not eligible for a phone call allowance.
4. An indigent prisoner may apply for the allowance by completing the Prisoner Phone Call Allowance Application form (Attachment C) and submitting it to the facility business office. An incomplete application shall be returned to the prisoner.
5. If the prisoner has made a false statement on the application, the application shall not be approved, and the matter shall be referred to a facility law enforcement officer or other designated staff.
6. The facility business office staff shall review recent activity in the prisoner's accounts, both to ensure that the prisoner does not have more than \$10.00 total in the accounts and to check that the prisoner has not spent more than \$20.00 for commissary items within in the last thirty (30) days.
7. If the prisoner is not eligible for a phone call allowance, the application shall not be approved and the prisoner shall be so notified.
8. If the prisoner is eligible for a phone call allowance, the application shall be approved, the prisoner shall be so notified and the phone call allowance (and obligation to repay it) shall be entered into CORIS by the facility business office

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staff.

9. An approved prisoner shall have up to \$2.50 each week placed on the prisoner's phone account (up to \$5.00 bi-weekly), capped at a maximum of \$10.00 in the phone account at any one time.
10. The obligation for the prisoner to repay these funds shall be paid from money received by the prisoner for deposit in either the phone or general account, excluding the personal savings escrow account, and shall remain active in the prisoner's accounts for (6) months. After six (6) months, the charge shall be deleted from the prisoner's facility accounts. New charges shall continue to accrue. Upon a prisoner's discharge from Department custody, all outstanding obligations to repay these funds shall be deducted from the prisoner's general account.
11. If a prisoner who has been approved for a phone call allowance later acquires more than \$10.00 combined in his or her phone account or general account at the facility, excluding a personal savings escrow account, after obligations are deducted, the phone call allowance shall be discontinued.
12. The prisoner may be denied approval for a phone call allowance or have a prior approval withdrawn at any time for any reason in the complete discretion of the facility Chief Administrative Officer, or designee.

Procedure D: Blocking of Numbers and Termination of Calls

1. If a written request is received from an adult or guardian of an adult that a prisoner not be allowed to make phone calls to that adult, the Chief Administrative Officer, or designee, shall ensure the adult's specific phone number(s) are blocked.
2. If a written request is received from a parent/guardian of a minor that a prisoner not be allowed to make phone calls to that minor, the Chief Administrative Officer, or designee, shall ensure the minor's specific phone number(s) are blocked.
3. Designated facility staff shall block specific number(s) as necessary under the following circumstances:
 - a. A prisoner who is convicted of or otherwise known to have committed a domestic violence offense against a person shall not be allowed to make a phone call to the victim without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
 - b. A prisoner who is convicted of or otherwise known to have committed a sex offense against a minor shall not be allowed to make a phone call to the victim, regardless of the victim's present age, without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.
 - c. A prisoner who is convicted of or otherwise known to have committed child abuse, including child abuse described in an endangering the welfare of a

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child case or a protection from abuse case, shall not be allowed to make phone calls to the victim, regardless of the victim's present age, without the prior approval of the Commissioner, or designee, as set out in Department Policy 6.3, Contact with Victims.

- d. A prisoner who is convicted of or otherwise known to have committed child neglect, including child neglect described in an endangering the welfare of a child case, shall not be allowed to make phone calls to the victim while the victim is still a minor without the prior approval of the Chief Administrative Officer, or designee, as set out in Department Policy 6.3, Contact with Victims.
- e. A prisoner who is a victim of a domestic violence offense shall not be allowed to make phone calls to the offender without the prior approval of the Chief Administrative Officer, or designee.
- f. When contact between a prisoner and another person is prohibited by a current court order (e.g., custody order, protection order, etc.), the prisoner shall not be allowed to make phone calls to that person.
- g. When contact between a prisoner and another person is prohibited by a condition of bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status of either person, the prisoner shall not be allowed to make phone calls to that person. This includes any condition that is currently in effect, is to become effective at a later date, or is no longer in effect as the result of a current revocation or current return from supervised community confinement.
- h. When a prisoner is prohibited by a current notification issued pursuant to Title 17-A, section 506-A, for the prisoner not to engage in harassing conduct against another person, the prisoner shall not be allowed to make phone calls to that person.
- i. The person is a former resident or prisoner within one year of discharge from any correctional facility for whom an exception to receive phone calls has not been approved by the Chief Administrative Officer, or designee.
- j. A person on bail or conditional release, administrative release, deferred disposition, probation, supervised release for sex offenders, supervised community confinement, parole, or community reintegration status, for whom an exception to receive phone calls has not been approved by the Chief Administrative Officer, or designee.
- k. A prisoner may be prohibited by the Chief Administrative Officer, or designee, from making a phone call to any other person when there is reasonable suspicion that allowing a call between them would facilitate criminal activity or juvenile criminal activity or violation of facility rules or would create a risk to safety, security, or orderly management of the facility.
- l. A prisoner may be prohibited from making phone calls to any other person by the Chief Administrative Officer, or designee, when there is reasonable

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suspicion that the prisoner or other person has violated or will violate the telephone rules.

- m. A prisoner in the Intensive Mental Health Unit (IMHU) may be prohibited from making phone calls to any other person by the Chief Administrative Officer, or designee, after consulting with the IMHU Behavioral Health Director, when there is reasonable suspicion that phone calls between them would create a risk to the mental health of the prisoner.
- 4. Having a criminal or a juvenile criminal record shall not, in and of itself, constitute a barrier to phone calls, but the nature and the circumstances of the offense may provide the reasonable suspicion for prohibiting calls.
- 5. Being a former staff member, volunteer, or student intern shall not, in and of itself, constitute a barrier to calls.
- 6. Designated facility staff may terminate a phone call at any time for reasons of safety, security, or orderly management of the facility. The staff shall complete appropriate documentation and submit it to the Chief Administrative Officer, or designee.

Procedure E: Suspension and Restriction of Telephone Privileges

- 1. If telephone calls are not allowed or terminated due to the behavior of the prisoner, the Chief Administrative Officer shall determine whether to impose a suspension or restriction of telephone privileges.
- 2. The Chief Administrative Officer may impose a suspension or restriction of telephone privileges for any other reason of safety, security, or orderly management.
- 3. The prisoner shall be notified in writing of a suspension or restriction of his or her telephone privileges.
- 4. A suspension or restriction may be imposed for either a definite or indefinite period of time. A suspension or restriction may be imposed only by the Chief Administrative Officer.
- 5. In the case of a suspension or restriction of a prisoner’s telephone privileges for a definite period of time, once the specified time has elapsed, the prisoner may apply for reinstatement of full telephone privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite period of time, or change a suspension to a restriction for a definite period of time.
- 6. In the case of a suspension or a restriction of a prisoner’s telephone privileges for an indefinite period of time, after a year has elapsed, the prisoner may apply for reinstatement of full telephone privileges by writing to the Chief Administrative Officer. The Chief Administrative Officer may decide to grant reinstatement, extend the suspension or restriction for a definite or indefinite period of time, or

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change a suspension to a restriction for a definite or indefinite period of time.

7. If a prisoner's telephone privileges have been suspended, the prisoner shall be informed in writing that he or she may reapply for reinstatement once the specified definite period of time has elapsed or, if the suspension is for an indefinite period of time, that he or she may reapply after one year has elapsed.
8. Nothing in this telephone policy applies to a prisoner who receives a disciplinary disposition of loss of telephone privileges for a disciplinary violation related to phone calls in accordance with the Department's disciplinary policy.

Procedure F: Monitoring of Prisoner Telephone Calls

1. All telephone calls made on the prisoner phone system, except for privileged calls, may be recorded. These phone calls and/or the recordings of these phone calls may be listened to with written authorization from the Chief Administrative Officer, or designee, using the Authorization to Monitor Communications (Attachment D).
2. This monitoring may be done by a facility law enforcement officer (either the facility correctional investigative officer (detective) or a Special Investigations and Intelligence Unit (SII) officer), if the officer is conducting an investigation of a crime or juvenile crime relating to the security or orderly management of the facility, is cooperating with an investigation being conducted by another criminal justice agency, or is engaging in any other activity that is related to the administration of criminal justice or the administration of juvenile criminal justice. Only those communications reasonably suspected to be related to the investigation or other activity may be monitored.
3. If authorized in writing by the Chief Administrative Officer, or designee, a facility law enforcement officer may listen to phone calls between a prisoner and a person the prisoner is prohibited from calling.
4. Recordings of any communications related to the investigation or other activity shall be maintained in accordance with departmental policy on the preservation of evidence. Investigations shall be coordinated with appropriate criminal justice agencies in accordance with departmental policy.
5. In every case in which the Chief Administrative Officer, or designee, authorizes a facility law enforcement officer to monitor communications during telephone calls, the officer shall document on the Communications Monitoring Record (Attachment E):
 - a. the name and MDOC number of the prisoner;
 - b. the date and time of the phone call;
 - c. a description of the communications monitored, including the name of the person called and the subject matter of the communication;

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- d. a description of any other action taken and the grounds justifying such action; and
 - e. the name of the officer monitoring the communications.
6. The officer shall attach to the Phone Call Monitoring Record the written authorization from the Chief Administrative Officer, or designee, to listen to the prisoner's phone calls.
 7. After the monitoring is completed, the originals of the forms shall be maintained by the facility law enforcement officer and copies of the forms shall be forwarded to the Chief Administrative Officer. If the communications concern criminal activity or juvenile criminal activity or a violation of a court order or condition of bail or conditional release, administrative release, deferred disposition, probation, or supervised release for sex offenders, the prisoner shall not be notified of the monitoring without the approval of the prosecuting attorney.
 8. If there is reasonable suspicion that phone calls to a privileged phone number are not actually privileged in nature, the Chief Administrative Officer, or designee, shall consult with the Department's representative in the Attorney General's Office as to what steps, if any, may be taken.
 9. In order to determine whether a prisoner has contacted or attempted to contact any victim with whom he or she is prohibited to have contact by this policy, facility law enforcement officers shall:
 - a. periodically monitor the phone calls of every prisoner at the facility participating in the Department's Family Violence Education Program (FVEP) or other domestic violence education program;
 - b. upon request of the Department's Director of Victim Services, or designee, monitor the phone calls of a prisoner who is prohibited to have contact with a victim by this policy, regardless of whether or not the prisoner has requested a waiver for contact with a victim; and
 - c. randomly monitor the phone calls of other prisoners at the facility who are prohibited to have contact by this policy.
 10. When a facility law enforcement officer monitors phone calls to determine whether a prisoner has contacted or attempted to contact any victim with whom he or she is prohibited to have contact by this policy, the above forms are not required, but the officer shall note in CORIS that the monitoring occurred pursuant to this policy and the results of the monitoring. The prisoner shall not be notified of the reason for the monitoring.

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Procedure G: Appeals and Grievances

1. Except in the case of a denial of approval under Department Policy 6.3, Contact with Victims, a prisoner may use the grievance process to grieve a decision related to phone calls.
2. In the case of a denial of approval under Department Policy 6.3, Contact with Victims, a prisoner may appeal the denial as set out in that policy.

VIII. PROFESSIONAL STANDARDS

ACA:

ACI

[4-4275](#)
[5-3D-4275](#)

Written policy, procedure, and practice ensure and facilitate inmate access to counsel and assist inmates in making confidential contact with attorneys and their authorized representatives; such contact includes, but is not limited to, telephone communications, uncensored correspondence, and visits.

[4-4497](#)

Written policy, procedure, and practice provide for inmate access to public telephones. Inmates with hearing and/or speech disabilities, and inmates who wish to communicate with parties, who have such disabilities, are afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment. Public telephones with volume control are also made available to inmates with a hearing impairment.

[5-7D-4497](#)

Written policy, procedure, and practice provide for inmate access to public telephones.

[4-4497-1](#)
[5-7D-4497-1](#)

Written policy, procedure, and practice ensure that offenders have access to reasonably priced telephone services. Correctional agencies ensure that:

- Contracts involving telephone services for offenders comply with all applicable state and federal regulations.
- Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.
- Contracts for offender telephone services provide the broadest range of calling options determined by the agency administrator to be consistent with the requirements of sound correctional management.

[5-7D-4497-2](#)

Written policy, procedure, and practice provide inmates with documented hearing and/or communication challenges, and inmates who wish to communicate with parties who have such disabilities, access to assistive technology. The technology provided to an inmate with hearing or speech disabilities shall be determined based on an individual assessment of the needs of the inmate. Public telephones with volume control are also made available to inmates with hearing impairment. Inmates shall not be denied access to assistive technology, except when the warden/superintendent or designee can present clear and convincing evidence that access will jeopardize the safety and security of the institution or the visitors.

[4-ACRS-5A-19](#)

There are telephone facilities on the premises which provide for inmate access to public telephones. Inmates with hearing and/or speech

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disabilities, and inmates who wish to communicate with parties who have such disabilities, shall be afforded access to a Telecommunications Device for the Deaf (TDD), or comparable equipment. Public telephones with volume control also shall be made available to inmates with hearing impairments.

4-ACRS-[5A-19-1](#)

Offenders have access to reasonably priced telephone services.

Correctional agencies ensure that:

- **Contracts involving telephone services for offenders comply with all applicable state and federal regulations.**
- **Contracts are based on rates and surcharges that are commensurate with those charged to the general public for like services. Any deviation from ordinary consumer rates reflects actual costs associated with the provision of services in a correctional setting.**
- **Contracts for offender telephone services provide the broadest range of calling options determined by the agency administrator to be consistent with the requirements of sound correctional management.**

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