

103 CMR: DEPARTMENT OF CORRECTION

103 CMR 405.00: FUND ACCOUNTS

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405.01: Purpose

The purpose of 103 CMR 405.00 is to set Department of Correction (Department) policy concerning the proper handling and distribution of Incarcerated Individual (I/I) and Civil Commitment (C/C) funds. 103 CMR 405.00 is not intended to confer any procedural or substantive rights, or any private cause of action not otherwise granted by state or federal law.

405.02: Cancellation

103 CMR 405.00 cancels all previous Department policies and procedures governing I/I and C/C Fund Accounts (FA) and money.

405.03: Applicability

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103 CMR 405.00 applies to all employees, I/Is, and C/Cs as defined in this regulation, who are in the custody of the Department of Correction, whether in pre-trial or sentenced status, and/or those persons who otherwise have an active FA, or have a status capable of transaction processing on the Department's Fund Account System (FAS).

405.04: Access to Regulation

103 CMR 405.00 shall be a public document and available on the Department's website. The regulation shall also be maintained within the Central Policy File of the Department, each Superintendent's Central Policy File, the Fiscal Office, and each institution Library and Library where any I/I or C/C, as defined in this regulation, are housed.

405.05: Definitions

Automated Deposit (ADS). A system implemented at the discretion of the Department, which may include utilizing a vendor or third-party, to process the receipt of funds, if required.

Cashbook. Journal posted manually to record the total of financial transactions processed through the Department's Fund Account System.

Civil Commitment (C/C). For purposes of this regulation, the term Civil Commitment (C/C) shall mean any person admitted for evaluation or civil commitment to the Bridgewater State Hospital (BSH), any Massachusetts Treatment Center (MTC) resident who is not serving a criminal sentence, and any person civilly committed to the Massachusetts Alcohol and Substance Abuse Center (MASAC), and/or persons who otherwise have an active FA.

Commissioner. The Commissioner of the Department of Correction.

Contraband Funds. Funds obtained by an I/I or C/C in violation of local, state, or federal laws, or funds not otherwise allowed to be in the possession of an I/I or C/C pursuant to any Department regulation.

Department. The Department of Correction or DOC.

Deposit. Process of transferring FA receipts to a depository approved by the State Treasurer.

Disbursement Slip. A standard Department form which documents a request to expend funds from a FA.

Earned Funds. Wages from the Commonwealth of Massachusetts for work performed by I/Is or C/Cs within the Department's industries program, in the servicing and maintenance of the

correctional institutions, and/or community work crews.

Electronic Data Management System (EDMS). An electronic platform used by the Department to maintain, process, store, and retrieve information collected and used by Department personnel and other authorized users.

Executive Director of Administrative Services. The Central Office Administrator whose duties include the overall management of Fund Accounts.

Fiscal Staff. Employee(s) responsible for accounting/bookkeeping records and supporting documentation (*e.g.*, receipt slips, Disbursement slips, End of Day (EOD) reports, *etc.*) for Fund Accounts.

Funds Account (FA). An account holding funds belonging to an I/I or C/C, as defined in this regulation, which is maintained by the Department. A FA includes all funds belonging to an I/I or C/C but may include separate categories of types of funds; *e.g.*, Earned Funds, Personal Funds, or Savings Funds, depending upon the manner in which the funds were acquired. Although these different types of funds are all part of each FA, the Department may implement a method for tracking the amount of each type of funds held in each FA.

Funds Account System (FAS). The computerized system used for the accounting of funds for I/Is and C/Cs.

Gate Fee. Operational funds deposited to an eligible I/I or C/C's FA for release.

General Fund of the Commonwealth. The fund created pursuant to M.G.L. c. 29, § 2.

Incarcerated Individual (I/I). A committed offender or such other person as is placed in custody in a correctional facility in accordance with law.

Institutional Treasurer. The institution employee whose responsibilities include, but are not limited to, depositing, and issuing funds from FAs, managing the overall operation and reconciliation of the FAS, and supervising employee(s) who keep(s) accounting/bookkeeping records and supporting documentation (*e.g.*, receipt slips, Disbursement Slips, slips, End of Day (EOD) reports, *etc.*).

Maintenance and Administration Fee Club Account (M&A Account). An account which holds maintenance and administration fees collected by the FAS pending disbursement to the Commonwealth of Massachusetts.

Manual Check. Checks generated by hand.

Personal Funds. Funds that are potentially accessible to an I/I or C/C.

Petty Cash Fund. A cash fund of a fixed amount used for small expenditures.

Qualifying Transaction. Transactions which trigger a maintenance fee. The receipt of funds via mail or from visitors, funds on an I/I's or C/C's person upon admission, or an I/I's or C/C's request for disbursement of funds are classified as qualifying transactions which trigger a maintenance fee. ADS deposits and payroll deposits are not classified as qualifying transactions and do not trigger a maintenance fee.

Receipt Book Slips. Four-part, pre-numbered DOC form (CI-SECC-1) which documents the receipt of cash by a DOC employee or authorized contractor/vendor.

Savings Funds. Funds that are not readily accessible to an I/I or C/C and require prior approval from the Superintendent.

Superintendent. The Chief Administrative Officer of a Department institution.

Support Services Division. The Division under Administrative Services responsible, in part, for overseeing the Department's handling of I/I and C/C funds in accordance with this regulation.

Unearned Funds. Funds deposited to an I/I's or C/C's FA that do not meet the definition of Earned Funds or Contraband Funds.

405.06: Fund Account Maintenance

(1) All I/I and C/C funds in the possession of the Department shall be maintained on the Department's FAS. The Department may, with the approval of the Deputy Commissioner of Administration, and upon request of an I/I or C/C, release funds from a FA to facilitate the I/I's or C/C's reentry process. I/I and C/C funds intended to be utilized for reentry purposes may be so designated within the I/I's or C/C's FA, if necessary. All previously purchased I/I or C/C savings bonds shall be held by Support Services.

(2) Pursuant to M.G.L. c. 124, § 1(u), I/Is and C/Cs shall be assessed reasonable fees for the maintenance and administration of FAs and for stop payment requests. The Commissioner shall establish the amount of the fee assessed. Fees shall be deducted from the I/I's or C/C's Personal FA that meet the criteria established in 103 CMR 405.06(2)(a) and (b).

(a) A fee shall be assessed if the FA has activity during the month to be charged that is a Qualifying Transaction. An FA will have a maximum of one maintenance and administration fee charge per month, regardless of the number of Qualifying Transactions

that may occur. This fee may be collected from either Unearned Funds or Earned Funds. The fee will be assessed on the FAS at the first Qualifying Transaction in that month. Collected fees shall be directly posted to the centralized M&A Account. (b) A fee shall be assessed for each check for which a stop payment request is executed. This fee may be collected from either Unearned Funds or Earned Funds.

- (3) The method of fee collection and the disposition of the generated revenue are detailed below.
- (a) Fees for executed stop payment requests shall be collected at the time the stop payment is approved and the institution is given permission to void the check.
  - (b) FA activity fees shall be assessed monthly.
  - (c) All assessments shall be accomplished via a transfer of funds from the FA to a centralized account. I/Is and C/Cs shall be provided receipts for all collected fees.
  - (d) A FA account shall be allowed to have a negative balance for the purpose of collecting a maintenance and administration fee. If, however, an I/I or C/C is subsequently released from Department custody with a negative balance as a result of the release transaction, said FA shall be reimbursed from the M&A Account.
  - (e) Support Services shall facilitate the sending of the revenue to the General Fund of the Commonwealth.

405.07: Wages and Stipends

- (1) It is the Department's goal for I/Is and C/Cs to always maintain a respectable Savings Funds balance. This becomes increasingly important as some I/Is move toward lower custody status where they shall eventually be required to expend their own funds for transportation, clothing, and food while they are establishing their work-release employment program. The primary purpose for Savings Funds is to ensure that I/Is and C/Cs shall be released with enough funds to aid in acquiring a residence and to be able to afford the expenses related to reintegrating in a community upon discharge or parole.
- (2) I/Is and C/Cs may receive wages from the Commonwealth of Massachusetts/Department of Correction. I/Is and C/Cs participating in DOC's work release programs may receive wages from any public or private employer other than the Department. I/Is and C/Cs who receive such wages shall receive, upon request, but no more than once per month, the FAS generated payment information indicating the amount of money which was credited to their FA, and how those monies were classified within the FA.
- (3) In accordance with M.G.L. c. 127, § 48A, and with the exception of I/Is serving any life sentence or those serving a one day to life civil commitment pursuant to M.G.L. c. 123A who have requested consolidation of all funds in a Personal FA pursuant to 103 CMR 405.07(7), at least 50% of an I/I's Earned Funds received from the Department shall be classified as Savings Funds and the balance shall be classified as Personal Funds.

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- (4) In accordance with M.G.L. c. 127, § 48A, the Superintendent shall expend any part or all of such Earned Funds to satisfy the victim and witness assessment ordered by a court pursuant to M.G.L. c. 258B, §8, or other fees authorized by statute. Such expenditures may occur before funds received are credited to any I/I or C/C account.
- (5) In accordance with M.G.L. c. 127, § 48A, with the approval of the Superintendent, I/Is and C/Cs may expend FA monies identified as Earned Funds, whether classified as Savings Funds or Personal Funds, for circumstances of compelling need, including but not limited to expenses related to family illness or death, legal defense, provision of essential articles of personal use or any other such circumstances of compelling need as determined by the superintendent. Such requests shall be submitted in writing to the Superintendent.
- (6) FA funds shall not be disbursed from one I/I or C/C to another I/I or C/C unless the Superintendent approves the request.
- (7) All I/Is and C/Cs shall maintain a Savings Fund account balance of at least \$100. Superintendents, in their discretion, may allow I/Is serving a life sentence, those serving a one day to life civil commitment pursuant to M.G.L. c. 123A, or other I/Is based on length of sentence or other extenuating circumstances, to consolidate all FA monies into their Personal FA.
- (8) Request for consolidation of Savings Funds to Personal Funds shall be made in writing to the Superintendent. Consolidation may be rescinded at any time in the Superintendent's discretion or in the event of application for commutation or parole or by other changes in circumstance.
- (9) I/Is or C/Cs from another state, incarcerated at a Department institution, shall abide by the regulating policy pertaining to Personal Funds and Savings Funds of the sending state.
- (10) A FA generated report shall be distributed annually, and may be distributed upon request, but no more frequently than once per month, to an I/I or C/C who receives compensation from the Commonwealth of Massachusetts for I/I or C/C wages and interest income paid.
- (11) The I/I and C/C Wage Scale and mandatory deductions for institutional I/I and C/C job assignments, excluding Correctional Industries, is as follows:

Basic Rate

I/I and C/C Wage Scale

- I.- (\$2.70 per day)
- II.- (\$2.03 per day)
- III.- (\$1.35 per day)
- 50% Forced earned Savings

Pre-release

- Work-release Prevailing Rate

	- Room & Board deduction as approved by the Commissioner -25% gross earned savings
Minimum Job Package	Set wages as approved by the Commissioner 50% forced earned savings
Skilled Kitchen and Maintenance Workers	Set wages as approved by the Commissioner -50% forced earned savings

I/I and C/C pay may be reduced if an I/I or C/C fails to work a full week. Any deviations from this pay scale shall require prior written approval from the Commissioner. All such written requests for alternate rates shall be detailed and shall be submitted through the Executive Director of Administrative Services. All alternate rate approvals shall remain in effect unless otherwise amended in accordance with the aforesaid. The Commissioner may adjust the I/I and C/C Wage Scale base rates in the Commissioner's discretion.

(12) Wages for I/Is and C/Cs employed by Industries shall be established in accordance with 103 CMR 455.00: *Correctional Industries*.

(13) General. I/Is or C/Cs who receive wages through a work-release program or through a program in which a private employer provides work within the institution are prohibited from receiving compensation directly from an employer. Work-release checks and paystubs should be mailed directly by the work-release program employer to the Institutional Treasurer. Alternatively, work-release checks may be delivered to the Institutional Treasurer via other Department approved electronic means, such as by direct deposit to a Department account based on information provided by the Institutional Treasurer, and paystubs may be delivered by secure online posting to be accessed and downloaded by the Institutional Treasurer. Where paystubs are securely posted online by the work-release program employer for access by the Institutional Treasurer, the work-release program employer shall provide the Institutional Treasurer with the means and ability, including but not limited to, provision of any required passwords, to access the paystubs. All paystubs must be presented to the Institutional Treasurer's office. The Institutional Treasurer shall then make all deductions both mandatory and voluntary, via the FAS, before releasing wages to the I/I or C/C.

405.08: Mandatory Work Release Deductions

Mandatory deductions from wages earned through participation in a work release program shall be entered on the FAS I/I or C/C Transaction screen. The work release deductions include, but are not limited to, the following:

- (1) Any authorized assessment, including, but not limited to court assessments, fines,

restitution, victim and witness assessments and other legislatively authorized assessments.

(2) Room and Board. Room and Board shall be at a rate to be determined by the Commissioner. Room and board collections shall be deposited into the account for Room and Board funds on the FAS, and a check in the amount of these collections shall be sent to the Executive Director of Administrative Services on a monthly basis. In the alternative, the Department may utilize a Central Room and Board Account. The Executive Director of Administrative Services shall then ensure that room and board revenue is properly forwarded to the State Treasurer. I/Is or C/Cs who were employed prior to entering Department custody and are now receiving worker's compensation benefits shall continue to have a room and board deduction taken from the gross benefit amount received.

(3) Amounts required to meet the actual and necessary food, travel, and other expenses of the I/I when released for employment.

(4) Any amount as ordered by other state or federal agencies with a legal right thereto (*i.e.*, Department of Revenue, Welfare, Internal Revenue).

(5) Deduction of the amount for restitution ordered as a result of the disciplinary process, whether such restitution is ordered on a one-time or ongoing basis.

(6) Each I/I or C/C participating in a work-release program shall have a minimum 25% of the I/I's or C/C's gross salary designated as savings.

(7) If an I/I or C/C receives any other monies as a result of their participation in a work-release program, the Department may make deductions for room and board.

405.09: Interest Income Earned From Funds on Deposit

The Department shall maintain an account with the State Treasurer that consolidates all FAs, regardless of the type of funds, for each I/I or C/C in the custody of the Department in order to maximize interest income; the Department shall award interest as required by M.G.L. c. 127, §48A, and may award interest on all other monies whenever feasible. The Department shall credit each active FA account with interest earned. To be credited with interest income for the current period, an account must be active in the system the day the interest is posted. The calculation for the distribution of interest and the posting of interest to all accounts will be accomplished via the FAS.

405.10: Receipt of Funds Procedure

(1) The Department may, in its discretion, implement an Automated Deposit System (ADS), through use of an outside vendor, for receipt and processing of I/I and C/C funds. The



methods and means by which funds may be accepted for deposit is determined by the Department. The Department may utilize an ADS to supplement, be in addition to, or in lieu of, any other deposit and processing method. If the Department implements an ADS, all funds shall be submitted through the ADS, whenever possible.

(2) Funds processed through an ADS shall be deposited by the vendor directly into a DOC FAS deposit only account as designated by the Department. The vendor shall also provide the Department with the necessary data file, including relevant transaction codes, so that the funds deposited are posted to the correct FAS accounts.

(3) If the Department does not implement an ADS or it is not possible to submit the funds through the ADS, the Department may create written guidelines to ensure the funds are not derived from or used for illicit or suspicious activity, or any acts taken in contravention of any DOC regulation or policy. If the Department determines that the funds cannot satisfy the established guidelines, the funds shall be deposited into the Commonwealth's General Fund via an FAS deposit only account.

(4) If the Department maintains any boxes for deposits of checks and/or money orders at correctional facilities, the Institutional Treasurer or Designee shall empty the box each business day.

(5) Cash shall not be accepted by the Department except in cases when it is in possession of the I/I or C/C upon admission into the custody of the Department. Any other cash received shall be considered contraband. The cash will be documented and deposited into the General Fund.

(6) Fiscal Staff shall ensure all cash properly received through the admissions process is properly receipted and accounted for.

(7) Fiscal Staff shall ensure that all checks and money orders received at a correctional facility are forwarded to the Department's ADS vendor for processing in accordance with 103 CMR 405.10(1). If the Department does not have an ADS vendor, the Department shall process such checks and money orders in accordance with 103 CMR 405.10 (3). After the funds are accepted for deposit at the institution or central location, Fiscal Staff shall ensure they are properly recorded and posted to the FAS.

(8) Fiscal Staff shall generate fund receipt slips via the FAS and deliver same to designated staff for distribution to I/Is or C/Cs.

(9) The availability of funds received by the Department will be restricted by means of an account freeze until said funds are properly returned and verified. If the Department learns at any time that funds are not returned or verified, the Department shall remove such funds from

the account to which they were posted on the FAS.

(10) All I/I and C/C receipts from the U.S. Treasury, or any other item that requires endorsement, must be properly endorsed.

(11) No institution shall accept/deposit any dual payee check in which an I/I or C/C is a co-payee.

(12) The Superintendent may, in their discretion, reject any receipt of funds on the behalf of any I/I or C/C, whether received via an ADS or drop-off, that exceeds a reasonable amount or is not in the best interest of the institution to maintain.

(13) Superintendents shall ensure that cash receiving activities shall be centralized in as few hands as possible.

(14) Persons receiving cash shall not have the ability to enter FAS transactions or change financial account data in FAS.

(15) Incoming mail shall be opened by a person without the ability to enter FAS transactions or change FAS financial data.

(16) All receipts must be deposited intact.

(17) Cashing of checks from daily receipts is prohibited.

(18) Specific persons shall be responsible for cash receipts from the time cash is received until it is deposited.

#### 405.11: Disbursement of Funds Procedures

(1) Whenever an I/I or C/C wishes to request the disbursement of funds from any of their FAs, the I/I or C/C shall:

(a) complete, and sign a Department standardized Disbursement Slip. The Department will utilize the same Disbursement Slip at all institutions.

(2) In an I/I or C/C indicates that they wish to disburse funds from Earned Funds, regardless of whether the Earned Funds are in a Savings Account or Personal Account, the funds shall only be eligible for potential disbursement if the Superintendent, in the Superintendent's discretion, makes a determination of a compelling need in accordance with M.G.L. c. 127, §48A; notwithstanding this determination, the request for disbursement must still be processed in accordance with 103 CMR 405.11(6).

(3) The I/I or C/C shall submit the Disbursement Slip, in person, to their designated

- Correctional Program Officer/designee.
- (4) The Correctional Program Officer/designee who receives the Disbursement Slip shall verify the I/I's or C/C's identification and sign the Disbursement Slip.
  - (5) Disbursement Slips shall be made available to the I/Is and C/Cs at designated area(s) within the correctional institution and when filled out, shall include:
    - (a) Date;
    - (b) Amount to be withdrawn;
    - (c) The type of funds the I/I or C/C is requesting funds be disbursed;
    - (d) Purpose;
    - (e) The I/I's or C/C's printed name, signature, and commitment number; and
    - (f) Correctional Program Officer/designee verification signature;
    - (g) Signature of the Deputy Superintendent indicating approval or denial of the request.
  - (6) Verification Process for Disbursement of Funds
    - a) Disbursements shall not be permitted for any illegitimate purpose. If possible, the I/I or C/C shall provide documentation (*i.e.*, bill or order form), along with the Disbursement Slip, to demonstrate the stated purpose for the requested disbursement is not illegitimate. If the I/I or C/C is unable to provide documentation at the time of the request for disbursement, the Department may request that the I/I or C/C provide any additional information or documentation the Department deems necessary to assess whether the requested disbursement is not for an illegitimate purpose. The Department may also conduct an internal review to verify the request for disbursement is not for an illegitimate purpose. If possible, all disbursements shall be made payable directly to the billing entity or identified recipient. An I/I's or C/C's failure to provide necessary documentation or information to demonstrate that the purpose of the requested disbursement is not illegitimate shall not be the sole grounds for denial of the request. The Deputy Superintendent or designee shall be responsible for the approval or denial of the disbursement request. The Department may develop internal guidelines to assist the Deputy Superintendent or designee in making this determination. The Department shall approve or deny the request for disbursement within ten (10) business days of the submission of the request for disbursement unless the Superintendent advises the I/I or C/C in writing that additional time is required to make a determination. If the disbursement request is denied by the Deputy Superintendent or designee, the I/I or C/C may request a review by the Superintendent.
    - b) If the Deputy Superintendent or Superintendent/Designee denies the I/I's or C/C's request, the Deputy Superintendent or Superintendent/Designee shall provide the I/I or C/C with the reason(s) for the denial in writing.
    - c) If the Deputy Superintendent or Superintendent/Designee, as applicable, approves the I/I's request, the Deputy Superintendent or Superintendent/Designee shall sign the

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request slip and submit the signed slip, along with any pertinent documentation, such as the bill to be paid or the order form for any gifts, to the Treasurer's Office for processing in accordance with 103 CMR 405.11(4) and 103 CMR 405.12.

- d) If the I/I or C/C disagrees with the final decision regarding disbursement, the I/I or C/C may appeal the determination by submitting a grievance in accordance with 103 CMR 491: *Inmate Grievances*.
- (5) Once the I/I's or C/C's disbursement request has been approved, Fiscal Staff shall take the Disbursement Slip and:
- (a) Ensure that the staff member's verification is present;
  - (b) Check the I/I's or C/C's account to ascertain there are sufficient funds for withdrawal.
- (6) The Treasurer/designee shall follow these procedures for preparing checks:
- (a) Checks. All approved requests for checks shall be entered into the FAS. Although DOC's system allows for the manual issuing of a check or checks, manual checks should only be issued when an I/I or C/C is being released and the FAS is not available to print checks.
  - (b) Persons Authorized to Sign I/I or C/C Checks. At a minimum, any institution that has an Institutional Treasurer or an Assistant Institutional Treasurer's position shall authorize the Institutional Treasurer and Assistant Institutional Treasurer to sign I/I or C/C checks. The Superintendent or other management staff should be authorized to sign checks to avoid the same staff member disbursing and signing the checks. This will ensure segregation of duties. By signing, staff are indicating that they have examined the check and backup documentation to ensure that the check information is correct, and the disbursement is being made in compliance with Department policy.
  - (c) Petty Cash. A Petty Cash fund may be established to provide quick access to cash when necessary. No Petty Cash fund shall exceed \$200 without written authorization from the Executive Director of Administrative Services. Disbursements from the Petty Cash fund shall be made for the purpose of providing cash for the I/I's or C/C's release. The dollar amount of monies disbursed from this fund should be limited to a maximum of \$50.

405.12: Disposal of Money Seized as Contraband

Absent a showing by the I/I or C/C that the Superintendent explicitly authorized the I/I or C/C to physically possess monies outside of an FA, any money found in the physical possession of an I/I or C/C shall be confiscated, a disciplinary report written, and the monies shall be processed in accordance with 103 CMR 403.15 and 103 CMR 403.16. If the I/I or C/C makes the aforementioned showing, the Superintendent shall ensure the money is credited to the I/I's or C/C's FA Savings Account.

405.13: Donations

(1) Donations to I/I or C/C Groups and Organizations

- a) No donations may be made payable to any I/I or C/C organization, group, or association on behalf of another I/I or C/C currently in the custody of the Department.

This does not preclude any person or organization from making a donation to an I/I or C/C group or organization to carry out its chartered purpose. Such donations shall be subject to the vetting process set forth in 103 CMR 405.10(3), and then entered via the FAS.

- b) I/Is and C/C's shall not be permitted to use political action committees to raise money for political purposes. All monies given to I/Is or C/Cs in violation of this section may be seized by the Department and handled in accordance with 103 CMR 403.15.
- c) This section does not apply to receipt of monies intended for a single I/I, or C/C, which are processed pursuant to 103 CMR 405.10.

(2) Donations From I/Is or C/Cs

I/Is and C/Cs shall be permitted to make donations to outside persons, entities, and/or political causes. Such donations must be processed and approved in accordance with 103 CMR 405.11.

405.14: Disciplinary Process Sanctioned Reimbursements

(1) I/I Personal Funds belonging to an I/I or C/C who has been found guilty through the disciplinary process in accordance with 103 CMR 430.00: *Inmate Discipline*, or 103 CMR 431, *Observation Of Behavior Reports*, and has been ordered to make restitution as a sanction will be automatically frozen upon the entering of the sanction in the disciplinary module of the FAS. The freeze placed upon Personal Funds in an FA shall be in the amount of the ordered restitution. While an FA is frozen only the balance of the I/I or C/C Personal Funds exceeding the amount of the freeze may be expended by the I/I or C/C.

(2) The Treasurer may withdraw all I/I and C/C Personal Funds available in an FA until full restitution is made. The I/I or C/C may, at any time, request to expend available Savings funds to pay restitution. Such requests will be made in accordance with 103 CMR 405.07(4). All restitution collected shall be returned to the General Fund of the Commonwealth or to the institution's operating budget as required.

(3) In any case where the disciplinary process has resulted in an order of restitution as a sanction for costs incurred by the Commonwealth, the Superintendent may, in the Superintendent's discretion, reduce the amount of restitution to the extent they deem appropriate.

(4) In any case where the disciplinary process has resulted in an order of restitution as a sanction to pay for scheduled charges on a regular basis, the Treasurer will only take funds

from an FA for charges that have already been incurred. No funds will be taken for a drug-testing sanction prior to the I/I or C/C being tested.

405.15: Court Assessments

(1) Court Assessments. All Personal and Savings Funds may be expended by the Superintendent to satisfy an amount ordered by a court including, but not limited to, restitution, judgments, fines, victim witness assessments, court costs, etc., notwithstanding the provisions of 103 CMR 405.15 and regardless of I/I or C/C consent. Such court-ordered restitution, fines, victim witness assessments, court costs, etc. shall be entered into the FAS. Payment of such court-ordered restitution, judgments, fines, victim witness assessments, courts costs, etc. shall also be entered in the FAS.

405.16: Money of Escaped or Deceased Incarcerated Individuals or Civil Commitments

If an I/I or C/C has died, the money in their FA shall be paid to the proven administrator, personal representative, trustee, or executor of the deceased I/I or C/C by the Treasurer, who shall retain a record of the transaction. Pursuant to M.G.L. c. 127, § 96A, monies that remain in a discharged, escaped, or deceased I/I's or C/C's FA after a period of two years, shall be paid to the State Treasurer, to be held subject to being paid to the person establishing a lawful right thereto. This transaction shall be coordinated by the Support Services Division instead of the institution and shall be processed in the FAS.

405.17: Release of Money upon Parole or Release from Department Custody

(1) Upon parole or release from Department custody, I/Is and C/Cs shall receive all monies in their FAs, including applicable interest accrued, provided they have relinquished all state property. For purposes of this transaction, "paroled or released" is defined as the authoritative discharge of confinement from the Department. If the I/I or C/C questions the amount and circumstances of the monies, action should be initiated immediately by the Treasurer to bring about a resolution of the amount in question.

If an I/I or C/C does not have at least \$50 in combined Personal and Savings monies, upon release, funds may be subsidized from the institutional budget, up to the sum of \$50. The funds received shall be documented.

- a) An I/I or C/C shall notify the Treasurer's Office of any existing savings bonds held by the Department to arrange for transfer of the physical savings bonds to their possession.

(2) All monies arriving at a Department institution after the parole or release of an I/I or C/C

shall be forwarded to the I/I's or C/C's new address. Before forwarding monies to an I/I or C/C, the Department may deduct the gate fee amount given to the I/I or C/C, if any.

405.18: Audits of Account Records

The Department Support Services Division shall audit each FA whenever there is a change of an Institutional Treasurer/Fiscal Manager responsible for the fund.

405.19: Monthly Reports

- (1) Institutional Treasurers shall complete and submit monthly reports as required by the Department.
- (2) Upon request, all active I/Is and C/Cs shall be provided with a monthly statement of the amounts in their personal and savings accounts via the FAS.

405.20: General Information

- (1) Unclaimed funds belonging to I/Is or C/Cs who are no longer active on the FAS shall be transferred to the State Treasurer's office annually. This transaction shall be coordinated by the Department on an FAS-wide basis.
- (2) Whenever there is movement of funds within an FA, a reconciliation shall be performed to ensure that similar entries were made on the FAS and in the Cashbook.
- (3) All supporting documentation to the monthly reports shall be retained, filed chronologically, and shall be stored in accordance with the Massachusetts State-wide Record Retention Schedule.

405.21: Responsible Staff

The Executive Director of Administrative Services, under the supervision of the Deputy Commissioner of Administration, shall be responsible for implementation and monitoring of 103 CMR 405.00 throughout the Department. Each Superintendent shall be responsible for implementation of 103 CMR 405.00 and for the development of any necessary and appropriate institution policies and procedures.

405.22: Annual Review

103 CMR 405.00 shall be reviewed at least annually by the Commissioner or a designee. The party or parties conducting the review shall develop a memorandum to the Commissioner with a copy to the Central Policy File indicating revisions, additions or deletions which shall

be included for the Commissioner's written approval and shall become effective pursuant to applicable law.

405.23: Severability

If any article, section, subsection, sentence, clause, or phrase of 103 CMR 405.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner or otherwise inoperative, such decision shall not affect the validity of any article, section, subsection, clause or phrase of 103 CMR 405.00.

REGULATORY AUTHORITY

103 CMR 405.00: M.G.L. c. 124, § 1(c), (q), (u); M.G.L. c. 127, §§ 3, 48, 48A, 49, 96A, and 162; M.G.L. c. 22E, § 4, M.G.L. c. 258B, and Executive Order 399.