



DEPARTMENT OF PUBLIC SAFETY	EFFECTIVE DATE: APR -3 1992	POLICY NO. 493.12.03
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POLICIES & PROCEDURES MANUAL		
SUBJECT: INMATE GRIEVANCE AND APPEALS PROCESS		Page 1 of :

## 1.0 PURPOSE

To establish standard procedures for governing an inmate grievance system which will achieve the following objectives:

- .1 Reduce inmate frustration and the need to resort to unacceptable behavior by providing an effective and credible mechanism for inmates to voice a grievance and receive a prompt, meaningful response from administration.
- .2 Improve institutional management, control, and conditions by establishing a mechanism which will identify institutional problems and afford a means for corrective action.
- .3 Reduce inmate litigation by establishing a system which will encourage its full utilization to resolve valid and justified grievances before resorting to the Courts.
- .4 Promote a more credible and effective inmate grievance system and improve staff/inmate relationships and communication by establishing a mechanism which will promote inmate involvement and commitment to the grievance process.

## 2.0 REFERENCES AND DEFINITIONS

### .1 References

- a. The Civil Rights of Institutionalized Persons Act, 42 U.S.C. Sec. 1997. Standards for Inmate Grievance Procedure 28CFR §40.3.1.
- b. Departmental Policy and Procedures Manual, 493.12.02, Inmate Access to Courts, Legal Services, and Legal Materials; 493.12.04, Access to Ombudsman.
- c. ~~Administrative Rules of Department of Public Safety, Sub-chapter 5, Administrative Remedy of Complaints.~~

### .2 Definitions

- a. Inmate Grievance Specialist - Person designated to track, process, and assign Complaints/Grievances to the designated person for response/resolution.

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- b. **Complaint** - A complaint is a specific allegation of wrongdoing, allegedly to have occurred within a facility against another person or persons.
- c. **Grievance** - A grievance is an injustice or unfair treatment an inmate/ward believes has been inflicted as a result of inconsistent, coercive, or disciplinary application of a policy or rule by correctional personnel or the Adjustment or Program Committee.
- d. **Appeal** - An appeal is a process whereby an inmate initiates further action within limits defined herein if dissatisfied with the disposition of the complaint/grievance, disciplinary action, or classification action.
- e. **Hearing** - A hearing is a scheduled meeting wherein information, relevant evidence, or witnesses' testimony may be presented to assist in the adjudication of a complaint/grievance, disciplinary action appeal, or classification action appeal.
- f. **Inmate** - Any person confined within an institution of the department who is either sentenced, pre-sentenced, or pre-trial.
- g. **Informal Discussion/Resolution** - Action taken or discussion held to solve a problem or relieve a situation without formal process, to reach a result acceptable to all parties.
- h. **Department Inmate Grievance Officer** - Person designated by the Director to administer the department grievance system.
- i. **Institutional Policy or Practice** - Any policy or practice which has general applicability to the inmate population.

### 3.0 POLICY

- .1 Every inmate under the jurisdiction of the Hawaii Correctional System shall be provided an opportunity to submit written grievances to a designated official. A prompt resolution of an inmate grievance, supported by well considered reasons, is essential in order to ensure the rights of the inmate and to ease any sense of frustration and ill-treatment.
- .2 All inmates shall be entitled to invoke the grievance procedure regardless of any disciplinary, classification, or other administrative or legislative decision to which the inmate may be subject. Grievance procedures shall also be accessible to those inmates who are impaired or handicapped.

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- .3 Inmates shall not be punished, disciplined, or denied any privileges when they invoke the grievance or appeal process.
- .4 Staff members shall not refuse to process a grievance on the grounds of invalidity or triviality.
- .5 Inmate and staff shall be provided a role in the grievance process. Inmate and staff opinion shall be solicited for grievances challenging institutional policies and practices.

### 4.0 ADMINISTRATION OF SYSTEM

- .1 Each facility Inmate Grievance Specialist shall be assigned by the Department Inmate Grievance Officer. The responsibility of the position shall be, but is not limited to, the following:
  - a. Insure that all grievances are recorded on the computer and tracked through each step of the grievance process.
  - b. Screen all inmate grievances. This screening shall take place prior to submittal to the first level of resolution, and shall decide what action should be taken to expedite the grievance.
    - 1) Assign the grievance for investigation and response to the designated person.
    - 2) Forward emergency grievances to the Facility Administrator for immediate response.
    - 3) Determine if the grievance requires inmate and staff participation.
    - 4) Post synopses of grievance requiring inmate/staff participation and solicit opinions.
    - 5) Ensure that all grievances and appeals are being responded to within the specified time limits.
    - 6) Periodically evaluate and report on the performance of the facility grievance system, and provide documented specifics.
    - 7) Ensure the integrity of the facility grievance system.
    - 8) Investigate grievances or perform other duties as assigned.
    - 9) Submit monthly report to Department Inmate Grievance Officer.

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### Controls Over the Position

This position receives general and technical supervision from the Department Inmate Grievance Officer, it receives direction from the Facility Administrator on matters relating to security, facility operations, and policies and procedures.

- .2 The Department Inmate Grievance Officer shall be responsible for:
  - a. Monitoring all facilities for compliance with departmental grievance procedures.
  - b. Ensure that all grievances and appeals are being responded to within the specified time limits.
  - c. Annually develop an evaluation report concerning the performance of the grievance system at all facilities.
  - d. Training of staff in all matters relating to the grievance procedure.
  - e. Report to the Director, on a monthly basis, the health and effectiveness of the grievance process.

### .3 INMATE AND STAFF PARTICIPATION IN RESOLUTION OF GRIEVANCE

Inmates and employees are provided a role in the operation of the grievance system at each institution. Each facility shall be given the flexibility to choose from two (2) systems of participation. The Inmate Grievance Specialist is required to solicit opinions from inmates and staff on grievances challenging general policy and practices. If a grievance challenges an institution policy or practice and the inmate objects to the participation of other inmates and institutional staff in the resolution of the grievance, the inmate may indicate such objections on the grievance form. Inmates are not allowed to participate in the resolution of any other inmates grievance over the objection of the grievant. One or both of the following systems may be used after it has been determined that inmate and staff participation shall be solicited.

#### Option 1

- a. A synopsis of the grievance, without the name of the inmate, shall be posted in each housing unit and other prominent areas that are accessible to inmates and staff. Staff and inmates shall be asked to submit their opinions in writing, to the Inmate Grievance Specialist within five (5) calendar days. The Inmate Grievance Specialist shall compile the results and based upon his/her judgement, recommend one (1) of the following:

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- 1) no change to the existing policy;
- 2) delete the policy or practice;
- 3) change or modify the policy or practice.

This recommendation may be challenged on appeal by the grievant.

### Option 2

- b. A synopsis of the grievance, without the name of the inmate, shall be posted in each housing unit and other prominent places that are accessible to inmates and staff. Using Complaint/Grievance Form No. B250, the Inmate Grievance Specialist shall randomly select three (3) inmates and three (3) staff to solicit their opinions. The Inmate Grievance Specialist shall compile the results, and based upon his/her judgment, shall make one of the following recommendations:

- 1) no change to existing policy or practice;
- 2) delete the policy or practice;
- 3) change or modify the policy or practice.

This recommendation may be challenged on appeal by the grievant.

- c. In all instances, the function of inmate and staff participation in the resolution of grievances shall be to help solve problems - not to judge guilt.
- d. Inmate and staff participation may take place at any level in the grievance process but at minimum must take place at the first level. Before a final decision in resolving a grievance is reached at any level, the advice of staff and inmates shall be considered. The final decision shall still rest with the designated staff reviewer.

### .4 LOG SYSTEM FOR INMATE COMPLAINT/GRIEVANCE

- a. The Inmate Grievance Specialist shall keep a computer log of Inmate Complaint/Grievances and submit a copy of the completed log to the State Inmate Grievance Officer and to the Facility Administrator upon request.

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- b. All grievance records shall be maintained, at the facility where the inmate is housed, for a minimum of three (3) years after the final response is issued to the grievant. If an inmate is transferred their grievance records will be forwarded to the Inmate Grievance Specialist at the receiving facility. At a minimum, the records for each grievant shall contain:
- 1) Initial Grievance and Response (DOC 8215);
  - 2) Appeals and Dispositions (DOC 8215);
  - 3) investigation reports; and
  - 4) inmate and staff advisory reports.
- c. The State Inmate Grievance Officer shall submit monthly running log of complaints/grievances as well as a statistical breakdown of all filed complaints/grievances to the Department of Public Safety Administration.
- d. The computer log statistics shall be used to identify potential problem areas in inmate management. The frequency of certain types of complaints/grievances may point to areas in which policies, procedures, and/or practices need review and possible revision.
- e. The following subject headings shall be used in the logs to describe the subject of the complaint/grievance.
- 1) Subject Headings:
    - a) Medical Services
      - a1. General services
      - a2. Dentist
      - a3. Slow or no treatment
      - a4. Other - specify
    - b) Complaints against staff
      - b1. ACOs - Security
      - b2. Counselors
      - b3. Unit Managers
      - b4. Section Supervisors
      - b5. Other Staff - specify

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- c) Facility Operations
  - c1. Food
  - c2. Clothing
  - c3. Sanitation
  - c4. Personal property
  - c5. Library
  - c6. Other - specify
- d) Disciplinary Matters
  - d1. Lockdown
  - d2. Segregation
  - d3. Adjustment Committee
  - d4. Loss of Privileges
- e) Community Communications
  - e1. Mail
  - e2. Telephone use
  - e3. Visits
  - e4. Other - specify
- f) Community Programs
  - f1. Furloughs
  - f2. Community treatment
  - f3. Other - specify
- g) Program Assignments
  - g1. Custody
  - g2. Worklines - general
  - g3. Worklines - education
  - g4. Other - specify
- h) Urinalysis
  - h1. Improperly done
  - h2. Violated rights
  - h3. Other - specify
- j) Transfers
  - j1. Within facility
  - j2. Between facilities
  - j3. Mainland

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k) Physical Facility

- k1. Maintenance
- k2. Construction
- k3. Store
- k4. Laundry
- k5. Other - specify

l) Legal

- l1. Jail time
- l2. Detainers
- l3. Sentence computation
- l4. Other - specify

m) Other - Specify

n) Business Office

- n1. Deposits
- n2. Store Accounts
- n3. Workline pay
- n4. Money transfers
- n5. Other - specify

p) Policy and Procedures

- p1. Security
- p2. Housing
- p3. Programming
- p4. Other - specify

.5 Confidentiality/Controlled Access

Access to records and files of complaints/grievances shall be on a need to know basis as determined by the Inmate Grievance Specialist. Records and files regarding the participation of an individual in grievance proceedings shall not be available to other inmates or to individuals participating in parole decisions.

.6 Evaluation

Monthly, Formative Statistical evaluations, using department MIS (Management Information Systems) computer format, will be conducted. Evaluations will, at a minimum contain the following:



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<u># Grievance's</u>	<u>Count</u>	<u>% of Total</u>
Filed		
Open		
Closed		
Step 1		
Step 2		
Step 3		
Upheld		
Other		
Information Discussion/Resolution		
Days Receipt to Disposition		
Inmates Filing First Time		
Posted for Opinions		

Grievance Specialists will submit, a monthly narrative report or their Facilities grievance process which will include the above statistics.

Review

Annually, in July, each facility will review its grievance procedures. One (1) week prior to this review a questionnaire will be posted to solicit staff and inmate opinions of the grievance process. At a minimum, such a review will examine inmate use of the grievance procedure and whether such use has resulted in meaningful consideration of complaints/grievances, and where appropriate, adequate remedies for grievances. Such evaluation/reviews will be submitted to the Director of Public Safety, State Attorney General, and the State Legislature.

.7 Communication of Procedures

- a. An oral explanation of the grievance procedure is to be given to each inmate and employee upon arrival at an institution. Inmate Grievance Specialist is assigned the responsibility of training inmates and staff on the grievance procedure (493.12.03).
- b. The Inmate Grievance Specialist is responsible to ensure that provisions are made for non-English speaking inmates, as well as for impaired or handicapped inmates. The written procedures shall be available in a language other than English if it is found that a significant part of the population of an institution speaks that language.

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- c. Staff assistance shall be available for those inmates who cannot prepare their grievances un-aided.

### .8 Remedies

The grievance procedure shall afford a grievant a meaningful and just remedy.

- a. All grievances shall be considered in view of the following in developing a remedy.
  - 1) Has the inmate made a claim that implicates a right guaranteed by either the State or Federal Constitution or a State or Federal Statute or Regulation.
  - 2) Has such a right in fact been violated or abridged.
  - 3) Can the abridgement of the right be justified by a legitimate institutional interest in order, security, or rehabilitation.
  - 4) Are there ways of protecting those legitimate interests adequately while minimizing the abridgement of the claimed right.
- b. Legal opinions and advice may be obtained from the Attorney General. Consult procedures outlined in DOC Policy, 493.01.19 (Legal Opinions and Memorandums, Request Forms).
- c. A standard range of meaningful remedies shall be employed, although available remedies may vary among institutions. All staff responsible for answering a grievance shall use the following guidelines, as a minimum, in developing a response.
  - 1) Grievances which question the interpretation of a policy or procedure:

Site authoritative opinions and interpretations, whenever possible, such as opinions of the Attorney General or a basis in State or Federal law. Explain what action will be taken, if necessary, to further clarify the meaning or intent of the policy or procedure. As an example, explain that policies will be revised or recommendations made for revision to clarify their intent. If recommendations to administration will be made for revising policies, explain what those recommendations will be.

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- 2) Grievances which question the application of a policy or procedure:

Explain what direction or instructions will be given to relevant employee or employees to ensure they will correctly apply the policy or procedure.

- 3) Grievances concerning an action of an employee or reprisal:

If the grievance is valid, so notify the inmate and explain that disciplinary action will be taken against the employee. The type of action taken shall not be communicated to the inmate.

- 4) Grievances concerning an action of another inmate:

Explain what measures will be taken to protect the grievant, such as reassignment of housing of one or both parties. Also explain what action will be taken to protect the grievant against reprisals.

- 5) Grievances concerning classification or programming:

Specify what action will be taken such as transfer, reduction of custody level, award of furlough, change of work assignment, etc.

- 6) Grievances concerning time computation:

Explain there will be prompt re-computation with expedited processing of any privileges or improvement in status which may have been lost as a result of any error in computation.

- 7) Grievances concerning loss of property under the custody and control of the facility:

Specific prompt action will be taken such as return of property, replacement of property of equal value at time of loss, or monetary payment equal to value of property at time of loss, and so forth.

- 8) Grievances concerning living and working conditions:

Specify what steps will be taken to immediately improve conditions. If conditions cannot be immediately improved, explain the reason and what action will be taken.

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d. No coercion, discrimination, reprisal, or any adverse action shall be imposed upon inmates for filing a grievance or appeal, or upon staff members and inmates participating in the resolution of grievances. To further promote this policy, the following practices shall be followed:

- 1) All inmate grievances shall be kept confidential (reference statement 4.5 for further details).
- 2) The inmate's file that goes to the parole board shall not contain any record of grievances filed by the inmate.

However, if an inmate files a grievance that contains false accusations or statements made in a knowing, deliberate, and malicious attempt to cause injury to another party, the parole board may be notified.

- 3) Inmates may be held accountable for submitting grievances or appeals in which there is clear and convincing evidence of intentional fabrication or distortion of facts.

### .9 Grievability

a. Inmates shall be allowed to file grievances on the following matters:

- 1) The interpretation and application of departmental and institutional policies, procedures, and practices.
- 2) The actions of staff and other inmates that affect them personally. This shall include the denial of access to the grievance procedure.
- 3) Reprisals against an inmate for filing a grievance or appeal under the grievance procedure, or for participating in an inmate grievance proceeding.
- 4) Any matter relating to the conditions of care and supervision within the Department of Public Safety that affect them personally.
- 5) Disciplinary measures imposed by a Unit Adjustment Team or Adjustment Committee.
- 6) Decisions made by a Unit Team or Program Committee concerning an inmate's program or classification.

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- 7) Any other aspect of institutional life as it may affect the health, safety, well-being, and constitutional rights of an inmate.
  - b. Inmates shall not be allowed to file complaints/grievances on the following matters:
    - 1) State and Federal Court decisions;
    - 2) State and Federal laws and regulations;
    - 3) Parole Board decisions.
- .10 Informal Discussion/Resolution
- a. Each institution shall initiate an informal discussion/resolution procedure, utilizing his/her caseworker, through which an inmate is offered the opportunity to first attempt to resolve their complaint/grievance directly with the responsible staff members.
  - b. Informal resolution of a grievance, by direct contact with the inmate, should be attempted before the inmate files a formal grievance. Form No. 8216 (Informal Discussion/Resolution Form) is provided for this purpose.
  - c. Informal Discussion/Resolution (Direct Contact) shall take place within (5) working days of initiation.
- .11 EMERGENCY PROCEDURES
- A committed person may forward a grievance directly to the Facility Administrator via privileged mail.
- a. If the Facility Administrator determines that there is a substantial risk of imminent personal injury or other serious or irreparable harm to the committed person, the grievance may be handled on an emergency basis and the inmate will immediately be removed from the general population.
  - b. The Facility Administrator shall respond to the committed person within three (3) working days of receipt of the grievance indicating what action shall be or has been taken. This decision shall be reviewed by the Division Administrator.
  - c. The Division Administrator will provide a response within three (3) working days of the receipt of the Facility Administrator's decision.

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### .12 Privileged Complaints/Grievances

- a. If an inmate complaint/grievance is of a sensitive nature, and there exists a reasonable belief that punitive measures will be taken at the hands of facility staff or other inmates, or would otherwise be adversely affected if it is known at the facility that the complaint/grievance is being filed, the inmate may file directly with the appropriate Division Administrator via Privileged Mail.
  - 1) In such cases, the inmate must explain the specific reason(s) for filing directly with the Division Administrator.
  - 2) The Division Administrator will send the inmate a signed, dated acknowledgement of receipt of the complaint/grievance.
- b. The Division Administrator, upon receipt of a privileged complaint/grievance, shall determine whether in the exercise of sound discretion, the complaint/grievance should be heard at the Division level, or whether in fact the complaint/grievance is not appropriate for special treatment or should be routed through the normal procedures within five (5) working days from the day of the receipt of the complaint/grievance.
- c. The Division Administrator shall reply to the complaint/grievance either by issuing a decision on the merits of the complaint/grievance, or informing the inmate and the appropriate Facility Administrator that the complaint/grievance is to be routed through normal channels.
- d. Appeal to the Division Administrator shall be the ultimate recourse available to the inmate within the administrative remedy process.

### .13 FILING A GRIEVANCE

- a. Each facility shall maintain locked mailboxes or grievance boxes for inmates to deposit completed Complaint/Grievance Forms 8215.
- b. The Complaint/Grievance Form shall be addressed to the Inmate Grievance Specialist and deposited in the living unit mailbox or other designated repository.

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- c. Complaint/Grievance Forms 8215 may be obtained from any living unit staff upon request.
- d. Complaint/grievances should address only one issue per form.
- e. Complaints/grievances must be individual in nature even though other inmates may be similarly affected.
- f. Staff or inmate assistance may be available to those committed persons who cannot prepare their complaint/grievance un-aided as determined by institutional staff.
  - 1) All committed persons shall be entitled to invoke the grievance procedure regardless of their disciplinary status or classification.
  - 2) Each facility shall ensure that the grievance procedure is accessible to committed persons who are impaired or handicapped.
- g. Committed persons must be informed of the grievance procedure at the admitting facility and may request further information regarding the procedure from their counselors.
  - 1) The written procedure shall be available to all committed persons.
  - 2) A committed person unable to speak or read the English language may request that the procedure be explained in his own language.
- h. Disciplinary action or reprisals may not be taken against a committed person solely for using the grievance procedure. A committed person may submit a grievance alleging that a reprisal has been made against him/her.
  - 1) No person who is directly involved in the subject matter of the complaint/grievance, or who was a member of the adjustment committee which heard a disciplinary report concerning the grievance, or who is otherwise not impartial may participate in the resolution of a complaint/grievance.

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- i. The complaint/grievance must be filed within fourteen (14) days from the date on which the basis of the alleged complaint occurred unless it is not reasonably feasible to file within such a period and the justification for the late filing is stated in the complaint/grievance.
  - 1) The basis for the complaint/grievance is the incident, occurrence, or action from which the inmate seeks relief or remedy must be clearly stated.
  - 2) The reviewer may choose not to process a complaint/grievance not submitted within the deadline.
- j. In preparing complaints/grievances and appeals, inmates shall avoid the use of profanity, threats of physical harm, and language which impugns the character of a staff member or which demeans the race, ethnicity, physical appearance, sex, religion, or national origin of a staff member. Grievances containing such language shall not be processed by the Inmate Grievance Specialist nor responded to at any step of the grievance process.
- k. Inmates who abuse the system may be dealt with on an individual basis.
  1. Inmates who provide false information may be subject to disciplinary action.

### .14 FILING STEPS

Before filing a formal Complaint/Grievance, a committed person (inmate) should make a good faith effort to informally resolve a Complaint/Grievance. The committed person (inmate) having reached a decision to file a formal grievance shall do the following:

- a. Obtain Complaint/Grievance Form 8215 from any staff member (forms are readily available). If the form is not on hand, staff will supply the committed person with a Complaint/Grievance Form as soon as possible.
- b. Committed person must fill out the form completely; i.e., name, SID number, date, housing unit, etc. Staff or inmate assistance may be utilized for committed persons who cannot prepare their complaint/grievance un-aided.



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- c. Take the completed Complaint/Grievance Form 8215 to the housing duty officer who will:
  - 1) Check to see if the form is complete with name, SID number, date, signature, housing unit, etc.
  - 2) If the form is complete, the officer will sign and date the Complaint/Grievance Form 8215 in the upper right-hand corner.
  - 3) Staff will not alter the form or refuse to accept same.
  - 4) The committed person will be given the designated "inmate receipt" copy for his/her records.
- d. The inmate will immediately (under the watchful eye of staff) place the Complaint/Grievance Form 8215 in the locked mailbox or other designated repository.
- e. Staff persons responsible for mail will transport, on a daily workday, the unaltered complaint/grievance to the Facility Inmate Grievance Specialist for action.
- f. Where grievance repositories are made available, the facility Inmate Grievance Specialist, or his/her designated authorized representative, will be solely responsible for retrieval of all complaint/grievance forms from the respective repositories.
- g. The only exception to the above procedure will be the filing of Emergency or Privileged Complaint/Grievance (P&P 493.12.03.4.11; 493.12.03.3.13).
  - 1) Privileged complaint/grievances may be placed in a sealed envelope, marked confidential. The envelope will then be dated and signed by the on-duty ACO. The inmate will then place the sealed envelope in the designated repository.
- h. The staff person designated to answer the grievance has fifteen (15) working days from the date of receipt of the complaint/grievance in which to investigate and respond. (Date of receipt shall begin from the date signed in the upper right-hand corner of Complaint/Grievance Form 8215).

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Step one (1) decision (Unit Manager, Section Administrator, or his/her designee).

- a. Inmate shall submit appeals of a step one decision on Complaint/Grievance Form 8215 within five (5) calendar days of receipt of step one decision. The control number from step one (1) grievance shall be placed in the space provided on Complaint/Grievance Form 8215 of the step two appeal form.
  - 1) Appeal from a Unit Manager's/Section administrator is to the Facility Administrator.
- b. The inmate shall submit a written statement regarding the basis of the appeal to the Facility Administrator.
- c. The Inmate Grievance Specialist shall verify the completion of the inmate's initial step and forward copies of the following information to the Facility Administrator:
  - 1) Copy of inmate's original complaint/grievance.
  - 2) The decision of the step one complaint/grievance.
- d. The Facility Administrator shall:
  - 1) Conduct an investigation;
  - 2) Conduct a hearing at which the inmate is given the opportunity to put forth their complaint/grievance, if the Facility Administrator in the exercise of discretion deems such hearings proper in the interest of justice;
  - 3) Sustain, modify, or overturn the decision of the lower decision maker(s).
- e. The Facility Administrator has fifteen (15) working days from the day of receipt of the appeal in which to submit a written response to the inmate. Should the 15 working days elapse without the inmate receiving a written response, an appeal directly to the appropriate Division Administrator may be initiated.

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- f. Upon receipt of the Facility Administrator's written decision, the inmate has up to five (5) calendar days to initiate further action if dissatisfied with the decision made by the Facility Administrator.
  - g. Appealing the Facility Administrator's decision.
    - 1) The inmate shall appeal to the Division Administrator.
    - 2) The inmate shall submit a written statement on Complaint/Grievance Form 8215 regarding the basis for the appeal to the Division Administrator via mailbox or other designated repository.
    - 3) The Inmate Grievance Specialist shall forward copies of the following information to the Division Administrator:
      - a) inmate's original complaint/grievance;
      - b) the decision of the Unit Manager or Section Administrator;
      - c) the appeal statement to the Facility Administrator;
      - d) decision of the Facility Administrator.
    - 4) The Division Administrator shall give the inmate a signed, dated acknowledgement of receipt of the appeal.
    - 5) The Division Administrator may:
      - a) request additional information from the facility;
      - b) conduct an investigation or hearing.
    - 6) The Division Administrator has twenty (20) working days from the receipt of the appeal in which to submit a written response to the inmate.
- .16 The decision of the Division Administrator shall be final.
- a. Appeal to the Division Administrator shall be the ultimate recourse available to inmates within the administrative remedy process.

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### .17 Powers of the Administrative Reviewer(s)

- a. Sustain, modify, or overturn the decision of the lower decision maker(s).
- b. The Administrative Reviewer shall also justify and explain all decisions in the written response to the inmate.
- c. The period of time for action by the reviewing official(s) may be extended up to fifteen (15) working days upon a finding that the circumstances are such that the initial period is insufficient to make an appropriate decision. The time extension must be agreed to by the inmate in writing.

### .18 Procedure for appealing disciplinary decisions.

- a. Disciplinary measures imposed by an Adjustment Committee in accordance with the provisions of the Administrative Rules of the Department of Corrections ~~17-201-19~~ shall normally commence forthwith. The Facility Administrator, however, shall have the authority to hold such disciplinary measures in abeyance pending the inmate's appeal if the administrator believes such action to be in the best interest of the inmate and/or facility.
  - 1) The inmate who wishes to request a delay in the imposition of disciplinary measures shall, in a letter, justify to the Facility Administrator the reason(s) why a delay is necessary. The Facility Administrator shall respond to the inmate in writing within three (3) working days.
  - 2) The Facility Administrator's denial of the inmate's request to have the sanction held in abeyance is grievable. The imposition of the sanction will not be delayed, however, pending the disposition of the request.
  - 3) Grievances of this nature shall be processed as a privileged complaint and shall be forwarded immediately to the Division Administrator. The Division Administrator shall respond within five (5) working days from the day of receipt of the grievance.

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- 4) Any loss of privileges and segregation time sustained by an inmate during the pendency of the appeal shall be credited to the inmate and deducted from the original disciplinary measures imposed by the Adjustment Team/Committee, in the event the Administrative Reviewer(s) rules against the inmate's appeal.
- b. All inmates have the right to seek administrative review of any disciplinary action through the administrative remedy process. Review shall be initiated within fourteen (14) calendar days of the day of receipt of the disciplinary decision.
- c. The steps for appealing disciplinary actions:
  - 1) On-the-spot correction: Section Administrator or Unit Manager - Facility Administrator
  - 2) Decision of Unit Adjustment Team: Facility Administrator
  - 3) Decision of Facility Adjustment Committee: Facility Administrator - Division Administrator
- d. The inmate appealing the disciplinary action(s) imposed shall file an appeal on Complaint/Grievance Form 8215.
- e. Each Administrative Reviewer(s) shall:
  - 1) Receive the complete file of the case, including, but not limited to:
    - a) the incident report;
    - b) the investigation report;
    - c) record of the hearing.
  - 2) Evaluate all the written documents submitted.
  - 3) Conduct an investigation to obtain further information when the record does not clearly establish:
    - a) the evidence upon which the disciplinary group has based its decision;

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- b) the reason(s) for imposing such disciplinary measure(s).
- 4) Determine whether the decision of the disciplinary group was based upon substantial and adequate evidence and whether the disciplinary measures are excessive.
- f. The administrative reviewer(s) shall submit a written and signed response to the inmate within fifteen (15) working days of the receipt of the appeal. Should the fifteen (15) working days elapse without the inmate receiving a written response, an appeal directly to the Division Administrator may be initiated.
  - g. Upon receipt of the reviewer's decision, the inmate has up to five (5) calendar days to initiate further action if dissatisfied with the decision.
  - h. If the inmate initiates further action, a statement regarding the basis for the current appeal is required.
  - i. The facility shall submit to the reviewer(s) the complete case record of the case on appeal.
  - j. Upon receiving an unsatisfactory response from the Facility Administrator, the inmate is free to initiate further appeal actions.
  - k. Reviewing officials may extend for up to fifteen (15) working days if it is determined that the initial period is insufficient to make an appropriate decision. The grievant must agree in writing to any extension.
  - l. The decision of the Division Administrator is final.
- .19 Procedure for Appealing Unit Team or Program Committee(s) Decision
- a. Each inmate has the right to seek administrative review of the decisions of the Unit Team or Program Committee directly affecting them. Review shall be initiated within fourteen (14) calendar days of the day of receipt of the final decision of the Program Committee.
  - b. The process for appeal of Program Committee decision(s):

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- 1) Program Committee's decision - Facility Administrator -  
Division Administrator
- c. The process for appeal of Program Committee decisions is the  
same as the process for appeal of disciplinary actions.
- .20 Referral to Agencies or Officials other than Departmental
  - a. An inmate should, but is not strictly required to, first  
exhaust the administrative process set forth in this policy for  
the resolution of complaint/grievance before seeking aid from  
the Ombudsman or other agencies or filing suits in court.
  - b. Inmates are advised that courts frequently require evidence  
that administrative remedies have been exhausted before  
accepting jurisdiction over a complaint/grievance.

5.0 Scope:

This policy applies to all Department of Public Safety facilities.

APPROVED:

Director

4-3-72

Date

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