APPLICABILITY:

This procedure applies to all employees of the Mississippi Department of Corrections and to all offenders committed to the custody of the Mississippi Department of Corrections.

POLICY STATEMENT:

It is the policy of the Mississippi Department of Corrections (MDOC) to maintain a written offender grievance procedure.

DEFINITIONS:

Administrative Remedy Program (ARP) - A program by which an offender may request administrative remedy for situations arising from policies, conditions, or events within the MDOC that affect them personally.

Legal Claims Adjudicator - Second-level supervisor of the Administrative Remedy Program who screens administrative remedy requests statewide and adjudicates claims with the approval of the appropriate Superintendent/Deputy Commissioner.

Days – Calendar days.

PROCEDURES:

ARP procedural forms are composed of duplicate and triplicate replications that are used by all parties to document the various steps of the appeals process. Due to the formatting multiplicity of these forms, they are generated for ARP by a professional printer and therefore cannot be accessed on MISNET.

Initial Complaint

- The initial complaint of an ARP and ARP appeals will be handled as legal mail by the Inmate Legal Assistance Program (ILAP) office.

- Requests for mailing ARP’s and ARP appeals will be submitted on the ILAP request form indicating what is to be mailed and the deadline date.

- The form will be placed in the ILAP box prior to 0700 hours on the assigned pick-up day.
Complaint Protocol

- Offenders will commence the grievance process by writing a letter to the Superintendent/Deputy Commissioner in care of the Legal Claims Adjudicator within thirty (30) days of an alleged incident.

- Offenders will briefly set out the basis for their claims, and the specific relief sought.

- Every letter will clearly indicate that “This is a request for administrative remedy”.

- Offenders will present as many facts as possible to answer all questions concerning the incident (who, what, when, where and how).

- Offenders will make a copy for their own records.

- The institution will not be responsible for furnishing offenders with copies of complaint letters.

- The original letter will become part of the process, and will not be returned to the offender.

Rejection Justifications

The Legal Claims Adjudicator will screen all requests prior to a Step One assignment. Requests will be rejected for one of the following reasons, and noted on Form ARP-1:

- This matter is not subject to appeal since the relief requested is beyond the power of the Mississippi Department of Corrections to grant.

- The complaint concerns an action not yet taken or a decision, which has not yet been made.

- There has been a time lapse of more than thirty (30) days between the event and the initial request.

- The offender has requested a remedy for more than one incident.

- The request does not contain the required language “This is a request for administrative remedy.”

ARP: Response to Requests

Notice of ARP’s acceptance or rejection of an offender’s request will be provided an offender via Relief Form, Form ARP-1.
If a request is rejected for technical reasons or matter of form, an offender will be allotted five (5) days from the rejection date to file a corrected grievance.

The printed forms used in this process will contain specific instructions for offender participants.

Offenders will be responsible for reading and following instructions in their totality. Offenders will use form ARP-I to continue additional process steps. Sufficient space will be allowed on the form for offenders to justify their reasons for requesting review at another level.

Once offenders complaints have been accepted by ARP, offenders will be required to use a manila envelope that is furnished with the Step One response to continue in the procedure.

Offenders may tuck, tape or staple envelope flaps for closure.

Offenders will not, however, glue envelope flaps.

**Step One: Legal Claims Adjudicator**

- The First Step respondent will respond to the offender within fifteen (15) days from the date the request is referred to the first level respondent by the Legal Claims Adjudicator.

- If the First Step Respondent has not responded to the grievance on or before the fifteen (15) day due date, the Legal Claims Adjudicator will process the grievance on to Step Two.

- The offender will be provided official notice that such a grievance automatically went on to Step Two.

**Step Two: Superintendent/Designee’s Review**

- Offenders who are dissatisfied with the first step response may request relief from the Superintendent or designee.

- This second step request must be received in the Legal Claims Adjudicator’s office within five (5) days from an offender’s receipt of the first step response.

- The Legal Claims Adjudicator will ensure that offenders receive a written response from the Superintendent or designee within twenty-five (25) days of receipt of the request for Second Step review.
Step Three: Commissioner’s Review

- Offenders dissatisfied with the Second Step review may appeal to the Commissioner of Corrections via the ARP Administrator.

- Offenders will attach all appropriate documents and responses from Step One and Two reviewers and mail the package directly to: Administrative Remedy Program Administrator, MDOC, 723 North President Street, Jackson, Mississippi 39202.

- Packages must be postmarked within five (5) days of the date of the second step response.

- The Commissioner or designee will make final decisions on all offender complaints.

- Offenders will be notified by mail postmarked within forty (40) days of receipt of appeals by the Commissioner.

- A copy of each appeal and the Commissioner or designee’s response will be sent to the Adjudicator for filing.

Emergency Review

- Emergency grievances will be defined as matters whose normal ARP disposition in accordance with the regularly prescribed time limits would:

  (a) subject the offender to substantial risk of personal injury

  (b) cause serious and irreparable harm to the offender

  (c) remove the attainability of the requested action

- Offenders who feel their grievances meet emergency criteria, will forward their requests to the Legal Adjudicator

- The Legal Adjudicator will determine the appropriate grievance level the requests will be routed to as per the substantive actions required.

- Emergency requests will be handled as expeditiously as possible, and subsequently reviewed by the Commissioner or designee.

- If an emergency grievance submission is ruled at any level to be a non-emergency, the request
will be returned to the offender with factual justifications for its rejection.

- The response will include notification that the matter may be resubmitted as a regular grievance appeal to Level 3.

- Offender abuse of the emergency review process will be treated as a frivolous and/or malicious request.

**Emergency Medical Request**

Any offender may request medical attention by declaring a medical emergency to the Legal Adjudicator.

**Sensitive Issues**

- If an offender believes that they will be adversely affected by filing a complaint of a sensitive nature at their facility, that offender may file their complaint directly to the Third Step Level (Commissioner) in care of the Administrator.

- The Offender will be required to provide a written explanation as to why they are reluctant to file a complaint at their facility.

- If an Administrator determines that an offender’s complaint merits sensitivity status, the complaint will be accepted and responded to by the administrator.

- Conversely, when an Administrator determines that an offender’s complaint does not merit sensitivity status, he will provide the offender with a written justification thereby denying the offender’s claim.

- Upon denial of a complaint’s sensitivity status, the Administrator will send a copy of the response memo to the Superintendent/CCD in care of the Legal Adjudicator.

- The offender will have five (5) days from the date the rejection memo is received by the Adjudicator to submit their request through normal ARP channels.

**ARP Timelines**

Unless an extension has been granted, no more than ninety (90) days will elapse from initiation to completion of the ARP process.

When an offender fails to receive the required written ARP grievance level response before the
expiration of time, the offender will be entitled to automatically advance to the next grievance level.

At any stage in the ARP process, an offender may submit a written request for a filing extension of up to five (5) days.

Offenders must include valid reasons for requesting additional filing time.

The Adjudicator will receive extension requests for Steps One and Two after assessing the validity of the offender's reasons for delay.

The Administrator will receive extension requests for Step Three after assessing the validity of the offender's reasons for delay.

Offenders will be notified in writing of extensions.

Under no circumstance will an offender's cumulative extensions exceed twenty-five (25) days.

**Procedural Abuse/Overuse**

- When an offender submits multiple requests, the first request will be accepted for processing.
- Additional requests will be logged and set aside for handling at the Adjudicator's discretion.
- ARP will log a maximum of ten (10) requests.
- Offender requests that exceed this number will be returned to the offender without filing.
- The Superintendent/designee will determine whether a letter of instruction to the offender is in order denoting abuse and/or overuse of the system.
- When such a letter is generated, a copy will also be forwarded to the Adjudicator's office.
- In the event that a request is unclear and/or the volume of attached material is excessive, the surplus material may be returned to the offender with a request for clarity and/or additional summarization on a separate page.
- In the event that an offender refuses to cooperate with ARP's inquiry into his complaint, the request will become subject to rejection and returned to the offender with a lack of cooperation duly noted on ARP-I form.
Records

- Administrative Remedy Program records are confidential.
- Employees who are participating in a request disposition may have access to records essential to the resolution of a request.
- All reports, investigations, and documentation other than the offender's original letter and Forms ARP-1 through 4 will be prepared by MDOC in anticipation of litigation.
- Said documents will become a part of the applicable attorneys' litigation portfolio and will therefore be confidential and not subject to discovery.
- A log will be maintained by the Legal Claims Adjudicator and will document the nature of each request, all relevant dates, and dispositions set forth in the first and second grievance steps.
- Individual requests and dispositions, and all responses and pertinent documents will be kept on file at the Adjudicator's office for at least five (5) years following the final disposition of the request.
- No copies of grievances or adverse references to any grievance will be placed in an offender's unit or central, master file.

Transferred Offenders

When an offender has filed a request at one facility and is transferred prior to completion of ARP review, or if he files a request after the transfer on an action taken by his former facility, the previous facility will process the second grievance step.

The Superintendent, CCD or designee of the offender's new facility will assist in the offender's ARP communication needs between facilities.

Discharged Offenders

- When an offender is discharged before completion of an ARP grievance review and the involved issues continue to affect the offender after discharge, or if an offender files a grievance after discharge, the involved unit will complete the ARP process.
- After completion of the ARP process, the unit will provide a final ARP determination to the discharged offender at his last known address.
All other requests will be considered null and void upon offender discharge, and MDOC will discontinue the ARP process.

**REPORTS REQUIRED:**

- Community Corrections: ARP Grievance Notification form
- ARP 1 Offender's Relief Request form
- ARP 2 First Step Response form
- ARP 3 Second Step Response form
- ARP 4 Third Step Response form
- Monthly Report
- Annual Report
- As required by this procedure and through the chain of command