

## 1.3.E.2 Administrative Remedy for Inmates

**Date Signed:** 8/22/2005

**Distribution:** Public

**Replaces Policy:** 3E.4

This policy supercedes the 7/27/2004 version.

**Affected Units:** Adult Institutions

**Effective Date:** Upon Signature

**Scheduled Revision Date:** July 2006

**Revision Number:** 3

**Office of Primary Responsibility:** DOC Administration

### Policy:

The Department of Corrections encourages informal resolutions of inmate appeals and complaints. When attempts at informal resolution are not successful, a process affording inmates a formal review of appeals and complaints is available.

### Definitions:

#### **Informal Resolution:**

Verbal or written contact between an inmate and appropriate staff to whom the complaint relates in which the problem is settled by agreement of both parties. The inmate's Unit Staff has the primary responsibility for the informal resolution of issues or problems.

#### **Formal Complaint:**

A written objection by an inmate regarding an issue dealing with the operation of an adult DOC facility, which is officially responded to by the Warden of the facility.

#### **Complaint:**

A formal complaint, informal complaint, or appeal by an inmate. Nothing in this policy is intended to prevent emergency contact between inmates and appropriate staff, either verbally or in writing, to deal with issues of an emergency nature.

#### **Administrative Remedy Coordinator:**

A designated staff member assigned by each Warden to act as a central receiving agent, investigation coordinator, and record keeper.

### Procedure:

#### **Utilizing Administrative Remedy Procedure:**

- A. Every inmate, regardless of his/her risk level or particular housing status, may utilize the administrative remedy procedure except as limited by this policy.
  1. An inmate housed at any DOC facility, contractual agency or on community service assignment may use the administrative remedy process (See DOC policy 1.5.A.6 *Community Service Program*).

2. An offender participating in the Community Transition Program may use the administrative remedy procedure in the same manner as any other inmate (See DOC policy 1.5.G.2 *Community Transition Program*).
  3. An inmate who has discharged his/her sentence or who is under supervised release outside of a DOC facility may not use the administrative remedy process.
- B. An inmate who uses the administrative remedy procedure in an attempt to resolve a problem will not be retaliated against for doing so.
  - C. An inmate who abuses the administrative remedy procedure may be disqualified from further use of specific parts or all of the administrative remedy procedure (See section on **Abuse of Administrative Remedy Procedure**).
  - D. An inmate who does not follow the proper procedure for administrative remedy will have his/her request returned to him/her with a brief explanation of why it was not processed.
    1. Only one (1) formal complaint per issue per inmate will be allowed.
    2. An inmate may address only one (1) issue per formal complaint.
  - E. An employee who is the subject of a complaint against staff will not participate in investigating or resolving that administrative remedy.
  - F. Time frames established in this policy will be followed unless reasonable cause can be documented for an extension.

### **Issues That Can Be Addressed Through Administrative Remedy:**

- A. Classification decisions (See DOC Policy 1.4.B.2 *Inmate Classification*). An inmate has thirty (30) days to initiate the administrative remedy procedure upon receiving notice of the classification decision.
- B. Disciplinary decisions (See DOC Policy 1.3.C.2 *Inmate Discipline System*). An inmate has thirty (30) days to initiate the administrative remedy procedure upon receiving notice of the Unit Disciplinary Committee (UDC) or Disciplinary Hearing Officer (DHO) decision.
- C. Decisions regarding restoration of forfeited good time (See DOC Policy 1.3.C.6 *Restoration of Forfeited Good Conduct Time*). An inmate has thirty (30) days to initiate the administrative remedy procedure upon receiving notice of the classification decision regarding the restoration of forfeited good time.
- D. An inmate's designation as an unconvicted sex offender (See DOC policy 1.4.B.9 *Unconvicted Sex Offender Review*).
- E. Complaints on the following (an inmate has thirty (30) days to initiate the administrative remedy procedure from the date of the incident or problem-giving rise to the complaint):
  1. The application of any administrative directive, policy, or unit rule or procedure.
  2. The lack of an administrative directive, policy, unit rule or procedure.

3. Any unprofessional behavior or action directed toward an inmate by personnel of the Department of Corrections, other State agency personal or contract employees who regularly work out of a DOC facility.
4. Any oversight or error affecting an inmate.

**Informal Resolution (Step One):**

- A. If an inmate has a complaint, he/she must first try to resolve it through an informal resolution.
- B. Because legitimate complaints can be resolved informally through other means much quicker in most instances than through the formal complaint procedure, attempts at informal resolutions between the inmate and staff are mandatory.
  1. If an inmate cannot verbally resolve a complaint through his/her Unit Staff, he/she can obtain an Informal Resolution Request form from Unit Staff (See Attachment 1).
  2. An inmate will complete his/her section of the Informal Resolution Request form and submit it to the Unit Staff member who can most adequately respond, normally the Unit Coordinator.
  3. Including the day the Informal Resolution Request form is received, Unit Staff have five (5) working days to provide a written response to the inmate.
- C. If the informal resolution of a complaint involves monetary compensation, the Administrative Remedy Coordinator must approve it, with concurrence from the Office of Risk Management.
- D. If the inmate believes the issue has not been properly resolved, he/she may obtain the Request for Administrative Remedy form from his/her Unit Staff (See Attachment 2).

**Formal Resolution (Step Two):**

- A. An inmate has five (5) working days, starting on the day the Informal Resolution Request response is provided to him/her to complete and turn in the Request for Administrative Remedy form (See Attachment 2) to his/her Unit Staff.
  1. The inmate will attach the original Informal Resolution Request to the Request for Administrative Remedy form prior to turning it in to Unit Staff.
  2. Failure to submit a statement of the formal complaint in the stated time will be grounds for dismissing the Request for Administrative Remedy.
- B. Unit Staff will promptly forward the Request for Administrative Remedy form to the Administrative Remedy Coordinator.
- C. The Administrative Remedy Coordinator will complete the RECEIPT section of the Request for Administrative Remedy form and assign a reference number.

- D. Only formal complaints received on the Request for Administrative Remedy form will be considered.
  - 1. The formal complaint statement should be simple and to the point.
  - 2. The statement must be written in the specific area given on the form.
  - 3. Additional paper may be used if necessary.
  - 4. If an inmate uses additional paper when completing any administrative remedy form, it is up to the inmate to make copies of that information for his/her own records.
- E. Including the day the Request for Administrative Remedy form is received by the Administrative Remedy Coordinator, the inmate will be provided a written response within ten (10) working days (See Attachment 3). If an extension of the ten- (10) working day period is needed, the inmate will be notified of the reason for the extension.

**Appeals to the Secretary of Corrections:**

- A. The Warden's Response to a Request for Administrative Remedy may only be appealed to the Secretary of Corrections if the complaint concerns:
  - 1. A major disciplinary action (refers to finding that an inmate violated a category 5 or 4 Prohibited Act listed in the Department of Corrections *Inmate Living Guide*, including loss of good conduct time for the infraction).
  - 2. A classification action identified as appealable to the Secretary of Corrections in the DOC policy 1.4.B.2 *Inmate Classification*.
  - 3. A decision regarding the restoration of good conduct time (See DOC policy 1.3.C.6 *Restoration of Forfeited Good Conduct Time*).
- B. An inmate must file an appeal to the Secretary of Corrections within ten (10) days of the Warden's response (See Attachment 4).
  - 1. Extensions may be granted for good cause.
  - 2. A copy of the Request for Administrative Remedy form and the Administrative Remedy Response form must be attached.
- C. The Secretary of Corrections will provide a written response within thirty (30) days of receipt of the appeal of the administrative remedy response.

**Abuse of the Administrative Remedy Procedure:**

- A. Informal Resolution Request forms, Request for Administrative Remedy forms and Appeals to the Secretary of Corrections containing profanity, threats or abusive language will be rejected and will not be responded to at any step of the administrative remedy procedure.

1. An inmate may be subject to disciplinary action if his/her submitted form(s) contains profanity, threats or abusive language.
  2. If any form is returned to an inmate because it contained profanity, threats or abusive language the inmate may resubmit a new/acceptable version of the form as long as he/she follows the timelines contained in this policy.
- B. If an inmate submits multiple forms referencing a particular issue and that issue has been previously addressed, those forms will be rejected and returned to the inmate unanswered (i.e. an inmate submits multiple Requests for Administrative Remedy over the same disciplinary action).
- C. The inmate's access to the administrative remedy procedure may be restricted if a decision is made by the Administrative Remedy Coordinator, in consultation with the Warden, that an inmate is abusing the procedure.

**Solutions Available Through Administrative Remedy:**

- A. The administrative remedy for a disciplinary appeal can include, but is not limited to, any of the following:
1. An order that the inmate receive a new hearing.
  2. A reduction of the sanction imposed by the UDC or Disciplinary Hearing Officer.
  3. A reduction of the disciplinary decision from a major to a minor.
  4. Reversal of the decision of the UDC or Disciplinary Hearing Officer.
- B. The administrative remedy for a classification appeal can include, but is not limited to, any of the following:
1. An order that the inmate receive a new hearing.
  2. Modification of the decision of the classification board.
- C. The administrative remedy for an appeal regarding restoration of forfeited good time can include, but is not limited to, any of the following:
1. An order that the inmate receive a hearing or have a new hearing.
  2. Modification of the decision of the classification board or the Warden.
- D. The administrative remedy for a formal complaint can include, but is not limited to, any of the following:
1. Modification of institution operational memorandums or recommendation for change to Department of Corrections policy.
  2. Restitution or restoration of personal property.

3. Restoration of lost privileges.
  4. Assurance that deprivation will not reoccur.
- E. Any personnel action taken as a result of a complaint is confidential information and may not be specified in the response to the inmate.

**Administrative Remedy Coordinator:**

- A. The Administrative Remedy Coordinator is a staff member acting as a central receiving agent for the institution. Duties include, but are not limited to:
1. Distribution of Request for Administrative Remedy Forms.
  2. Adherence to established time frames.
  3. Maintenance of files.
  4. Preparation and submission of explanatory handouts of the administrative remedy procedure to staff and, in some cases, to inmates.
  5. Collection of data and submission of reports on the administrative remedy system to the Warden and the Secretary of Corrections.
  6. Approving restrictions on inmate access to the administrative remedy procedure for abuse of the procedure, after consultation with the Warden.
- B. Any formal complaint or appeal not completed or completed incorrectly will be returned to the inmate unanswered with a written statement as to why it was not processed. In each unit, assistance from Unit Staff will be available for inmates who have difficulty completing the form by themselves.
- C. Formal complaints will be routed to the department head or staff person who oversees the issue complained or who would be the most knowledgeable about the issue complained.
1. This person may investigate the issue complained and will send a written draft response to the Administrative Remedy Coordinator.
  2. The Administrative Remedy Coordinator will review the draft response for accuracy and completeness and forward the draft reply to the Warden for final approval and signature.

**Supplemental Instructions:**

- A. Wardens may issue necessary supplemental instructions to ensure compliance with the terms of this policy.

**Related Directives:**

- 1.3.C.2 – *Inmate Discipline System*
- 1.3.C.6 – *Restoration of Forfeited Good Conduct Time*
- 1.4.B.2 – *Inmate Classification*
- 1.4.B.9 – *Unconvicted Sex Offender Review*
- 1.5.A.6 – *Community Service Program*
- 1.5.G.2 – *Community Transition Program*
- Inmate Living Guide*

**Revision Log:**

April 2003: **Revised** Related Policy Numbers throughout policy.

July 2004: **Clarified** that inmates housed at a contractual facility or at a community service site may use the administrative remedy procedure. **Added** reference to policy 1.5.A.6. **Changed** reference from classification manual to inmate classification policy. **Added** personnel whom inmates can use the administrative remedy procedure to complain about. **Added** language to allow inmates, in some circumstances, to resubmit forms rejected because of abuse. **Added** language that the Warden will be consulted prior to an inmate being barred from the administrative remedy process.

August 2005: **Added** reference to policy 1.4.B.9 and added USOR as an item to be addressed through administrative remedy. **Added** reference to policy 1.5.G.2 and gave community transition program offenders the same administrative remedy rights as an inmate. **Changed** "will" to "may" on Wardens issuing supplemental instructions.

Tim Reisch	August 22, 2005
Tim Reisch, Secretary of Corrections	Date

## Attachment 1 Informal Resolution Request

The *Informal Resolution Request* form is located on the state's Wide-Area-Network.

A copy may be printed using *Microsoft Word 97* as follows:

1. Select *File / New* from the *Menu Bar*.
2. Select the *DOC* tab.
3. Select *Informal Resolution Request*.

The gray areas indicate the information that is to be entered.

Informal Resolution Request		
Inmate Name: _____	_____	Inmate Number: _____
Last Name	First Name	
Date: _____	Unit: _____	
Describe your problem/complaint. Be specific, giving dates, times and basics:		
_____		
_____		
_____		
_____		
_____		
_____		
_____		
_____		
_____		
What action are you requesting: _____		
_____		
_____		
For BATTU: _____	Date Received: _____	Received by: _____
What steps did you take to resolve the problem? _____		
_____		
_____		
What was the result of your attempt? _____		
_____		
_____		
Date Returned to Inmate: _____	By: _____	
ORIGINAL - To Inmate after staff response - To be used if needed		
1 <sup>st</sup> copy: To Inmate after staff response		
2 <sup>nd</sup> copy: To unit file after staff response		
3 <sup>rd</sup> copy: after receipting in		





