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DEPARTMENT OF CORRECTIONS

DIVISION 109

INMATE COMMUNICATION AND GRIEVANCE REVIEW SYSTEM

291-109-0010 [Renumbered to 291-109-0110]

291-109-0100

Authority, Purpose, and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to establish department policy and procedures for proper and effective communication between staff and inmates, and for the administration of the department's internal grievance review and appeal system for inmates confined in Department of Corrections facilities.

(3) Policy:

(a) Proper and effective communication between staff and inmates is an integral component of sound correctional facility management and inmate habilitation. Experience has demonstrated that issues/disputes between inmates and staff can be resolved more effectively when inmates first speak directly to the appropriate staff person about a perceived problem/issue. The interaction from face-to-face communication between inmates and staff often leads to faster and more satisfactory resolution of issues/disputes, while reducing staff time and paperwork. To these ends, it is the policy of the Department of Corrections to promote and encourage proper and effective communication between staff and inmates by requiring that inmates use the communication continuum established in these rules. Integral to the policy is the directive that inmates seek to resolve issues/disputes with staff at the lowest possible level, beginning with verbal face-to-face communication, and that staff respond to inmate

communications in a professional and timely manner.

(b) Recognizing that due to the complex nature of the correctional setting some issues/disputes between staff and inmates may not be readily resolved, it is the policy of the Department of Corrections to permit and encourage inmates to seek resolution of issues/disputes that cannot be resolved through a dialog with staff using the department's internal inmate grievance review and appeal system established in these rules.

(c) Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections that all inmates be treated fairly and equitably, and that staff actions and decisions be consistent with the rules, policies and procedures of the department.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03

291-109-0110

Definitions

(1) **Administrative Directive:** A term used to describe in general a Department of Corrections rule or policy signed by the Director.

(2) **Communication:** A process by which information is exchanged between individuals, usually through verbal or written message.

(3) **Department of Corrections (DOC) Employee:** Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections; any person under contractual arrangement to provide services to the department; any person employed by private or public sector agencies who is serving under department-sanctioned special assignment to provide services or support to department programs.

(4) **Emergency:** Any condition or situation where life, health, or safety may be threatened or where time frame considerations necessitate an immediate response or remedial action.

(5) **Functional Unit Manager:** Any person within the Department of Corrections who reports either to the Director, an assistant director, or an administrator and has responsibility for the delivery of program services or the coordination of program operations.

(6) **Inmate:** Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(7) **Inmate Communication Form:** An official Department of Corrections form commonly referred to as a "kyte or kite." The form is designed for inmate use in communicating with employees and in which employees can respond to the inmate.

(8) **Oregon Corrections Enterprises:** A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an

external organization.

(9) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises. For the purposes of this rule only, employee shall also include any person under contractual arrangement to provide services to the agency; any person employed by private or public sector agencies who is serving under agency-sanctioned special assignment to provide services or support to agency programs.

Stat. Auth: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Hist.: CD 3-1979, f. 1-18-79, ef. 1-25-79; CD 34-1981(Temp), f. & ef. 8-7-81; CD 5-1982, f. & ef. 1-29-82; CD 39-1983(Temp), f. & ef. 10-14-83; CD 6-1984, f. & ef. 4-9-84; CD 53-1985, f. & ef. 8-16-85; CD 56-1986, f. & ef. 12-5-86; CD 13-1992, f. 6-15-92, cert. ef. 6-26-92; DOC 29-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-00; DOC 17-2000, f. & cert. ef. 6-19-00; Renumbered from 291-109-0010; DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03

291-109-0120

Inmate-Staff Communications

(1) General Principles:

(a) Proper and effective communication between inmates and staff is essential in Department of Corrections facilities. Inmates and staff communicate with each other not only with their choice of words (oral or written), but also non-verbally through their manner, tone, and approach (commonly referred to as "body language"). Inmates and staff are jointly responsible for ensuring their choice of words, manner, tone and approach are appropriate to properly and effectively convey their intended information and ideas to one another.

(b) Inmates shall communicate with staff in a civil and respectful tone and manner.

(c) Staff shall communicate with inmates in a professional manner that fosters respect and confidence. Staff orders directed to inmates should be clear and concise.

(2) Communication Continuum:

(a) Inmates requiring information from or seeking to resolve issues/disputes with staff shall communicate with DOC and OCE employees using the department's approved communication methods, in the following order:

(A) Face-to-face, verbal communication;

(B) Written inmate communication form;

(C) Written grievance; and

(D) Written grievance appeal. Inmates shall work through the department's approved communication continuum with the staff person to whom the inmate's question or complaint is directed.

(b) Inmates will be specifically informed of the department's approved communication continuum at the

time of intake/orientation.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

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291-109-0130

Inmate Communication Forms

(1) An inmate shall use an inmate communication form to communicate with DOC and OCE employees when the inmate is unable to obtain the information he/she seeks or to resolve his/her issue(s)/dispute(s) by first speaking with appropriate staff.

(2) An employee shall make every effort to respond to an inmate communication within five working days of receipt. If the inmate does not receive a response from the employee within a reasonable time period, based on the time guidelines within this rule, the inmate shall send a second inmate communication to the employee to seek resolution of the issue.

(3) Inmate communications containing profanity, threats, or other inappropriate language or comments will be returned to the inmate without further processing by staff, and with instruction that the inmate resubmit the communication using appropriate language that is civil and respectful in tone and manner. Inmate communications containing profanity, threats, or other inappropriate language or comments may subject the inmate author to disciplinary action in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(4) Inmate communications that are sent to employees other than to staff at the lowest level of responsibility for resolving or responding to the question/issue will be returned to the inmate, with instruction that the inmate resubmit the communication to the appropriate employee identified by staff in the response.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

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291-109-0140

Grievance Review System

(1) General Requirements:

(a) If an inmate is unable to resolve an issue through the department's approved communications continuum by first speaking with appropriate staff, and second by use of an inmate communication form, an inmate may seek resolution of the issue by submitting a written grievance using the department's approved inmate grievance form (**CD 117**) in accordance with these rules.

(b) An inmate grievance must include the date and time the inmate attempted to speak with the employee(s) to resolve the issue. Inmates must also submit with their grievance, the original or copy of the inmate communication sent to the employee regarding the issue, and the employee's response.

(c) An inmate who attempts to grieve an issue by use of an inmate communication form or any written communication other than the department's approved inmate grievance form shall have his/her communication returned to him/her with instruction that the inmate resubmit the grievance on the department's approved inmate grievance form.

(d) An inmate grievance may request review of just one matter/action/incident per inmate grievance form. Only one grievance per incident per inmate will be allowed.

(e) An inmate may only submit his/her signature on a single grievance form (for example, an inmate may not submit a group grievance that represents other inmates, or act as a spokesperson for other inmate(s).)

(f) An inmate may only obtain grievance review of one DOC or OCE employee's actions/decisions on a single grievance form.

(g) The department will not process grievances on claims or issues that the inmate is pursuing in pending litigation in the courts.

(2) What an Inmate Can and Cannot Grieve:

(a) An inmate may grieve the following:

(A) The application of any administrative directive or operational procedure;

(B) The lack of an administrative directive or operational procedure;

(C) Any unprofessional behavior or action which may be directed toward an inmate by an employee or volunteer of the Department of Corrections;

(D) Any unprofessional behavior or action which may be directed toward an inmate by an employee or volunteer of the Oregon Corrections Enterprises; or

(E) Any oversight or error affecting an inmate.

(b) An inmate may not grieve the following:

(A) Grievances relating to actions or decisions not within the jurisdiction of the department (e.g., actions by the Board of Parole and Post-Prison Supervision);

(B) Incident(s) or action(s) for which there exists a separate appeal or review process; for example, misconduct reports, rejection/confiscation of mail, visiting, property claims, discrimination complaints, etc.

(C) Incident(s) or problem(s) to which an inmate was not a party; or

(D) Failure of a DOC or OCE employee to respond to or to process inmate concerns or complaints within the timelines established by rule.

(3) How and When a Grievance is Filed:

(a) Inmate grievances must be submitted to the functional unit grievance coordinator on the department's approved inmate grievance form (CD117). Instructions for filing a grievance are found on form CD117a (Inmate Grievance Instructions).

(b) To obtain grievance review, the functional unit grievance coordinator must receive an inmate's grievance within 30 days of the date of the incident giving rise to the grievance. The grievance coordinator shall date stamp and log the grievance form upon receipt.

(c) An inmate who seeks grievance review of an emergency situation as defined in OAR 291-109-0110 (4) should submit his/her grievance to the grievance coordinator as soon as possible after the incident/occurrence so that it may be processed in a timely manner.

(d) In the event an inmate cannot complete the grievance form due to language barriers, physical barriers (in compliance with Section 504 of the Federal Rehabilitation Act), and/or competency and capacity barriers, another person may complete the form for the inmate. However, the inmate submitting the grievance must sign the grievance form. Translation services for submission of inmate grievance forms for non-English speaking/illiterate inmates will be made available upon request.

(e) Functional unit managers and/or designees shall ensure the approved inmate grievance forms are readily available to inmates in DOC correctional facilities.

(4) Processing of Inmate Grievances and Grievance Appeals:

(a) Upon receiving an inmate grievance, the grievance coordinator will assign the grievance a number and record its receipt in an inmate grievance log. After the inmate grievance has been logged, the grievance coordinator will send a grievance receipt to the inmate, and send the grievance and a grievance response form (CD 117b) to the staff respondent for response. The respondent will complete the form and submit it to his/her supervisor for review and signature. Every effort shall be made to return the response to the grievance coordinator for processing within 15 working days.

(b) After recording, the grievance coordinator will send the inmate grievance and employee's response to the inmate and retain copies for the file.

(c) Grievance responses may be consolidated.

(5) Grievance Appeals:

(a) Appeals from Employee Response:

(A) An inmate may appeal the employee's response using the grievance appeal form (CD 117c). The appeal must be submitted to the grievance coordinator together with the original grievance, attachments and staff response(s). No additional information may be submitted. After the appeal has been date stamped and logged, the inmate will be issued a return receipt, and the grievance appeal will be forwarded to the functional unit manager having authority to review/resolve the issue.

(B) Appeal Timelines: An appeal must be received by the grievance coordinator within 14 days of the date that the employee response was sent to the inmate. The functional unit manager shall respond to the inmate's grievance appeal within 30 calendar days of receipt of the appeal.

(b) Appeals from Functional Unit Manager Decisions:

(A) An inmate may appeal the functional unit manager's decision using the grievance appeal form (CD 117c). The appeal must be submitted to the grievance coordinator together with the original grievance, attachments, and staff responses. No additional information may be submitted. After the appeal has been date stamped and logged, the inmate will be issued a return receipt. The grievance appeal will be forwarded to the assistant director having authority to review/resolve the issue.

(B) The assistant director shall review the grievance appeal. If the assistant director determines additional facts should have been gathered or additional witnesses interviewed, the grievance appeal will be referred back to the functional unit grievance coordinator. Upon completion of the investigation, the assistant director shall complete the review.

(C) Appeal Timelines: An appeal must be received by the grievance coordinator within 14 days of the coordinator's return date to the inmate. The assistant director shall respond to the inmate's grievance appeal within 30 days of receipt of the appeal.

(D) The assistant director's decision on an inmate's grievance appeal is FINAL, and is not subject to further review.

(6) Abuse of Grievance Review System:

(a) An inmate shall submit no more than three inmate grievances in any one week or eight in any calendar month, unless a valid justification exists. Grievances submitted in excess of three grievances in any one-week or eight in any calendar month will be returned to the inmate without further processing, noting that he/she has abused the grievance review system.

(b) If a situation arises whereby there is a valid justification for submission of a grievance in excess of three in any one week or eight in one calendar month, it is the responsibility of the inmate submitting the grievance to clearly and concisely state in writing the reasons for the grievance. If the grievance coordinator determines that these reasons are not clear, concise, or valid for the submission of an additional grievance, the grievance will be returned to the inmate without processing in accordance with subsection (a) above.

(c) Actions taken against an inmate who has abused the grievance review system under these rules are not grievable.

(7) Retention/Filing of Inmate Grievances:

(a) The grievance coordinator will retain a file copy of grievances with pertinent documents, including appeals, in accordance with the State Archivist schedule.

(b) Inmate grievances will not be filed in the inmate's working file.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075

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