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# ADMINISTRATIVE DIRECTIVE

SUBJECT: Inmate Grievance Procedure

NUMBER: 12-16 SUPERSEDES: 10-32

APPLICABILITY: All employees and inmates PAGE 1 of 29

REFERENCE: AR 835 - Grievance Procedure for Offenders

APPROVED: Original signed by Ray Hobbs EFFECTIVE DATE 05/28/2012

#### I. POLICY:

It is the policy of the Arkansas Department of Correction to provide inmates in its custody an administrative mechanism for the resolution of complaints, problems and other issues.

## II. <u>EXPLANATION</u>:

A grievance procedure is an administrative means for the expression and resolution of inmate problems and complaints. The mechanism is designed to solve the problem at the lowest level, as immediately as feasible, and in a manner that is fair, reasonable and consistent with the Department of Correction's mission.

The administrative mechanism for the resolution of complaints and identification of problem areas is intended to supplement but not replace daily or routine communication between staff and inmates.

## III. DEFINITIONS:

A. <u>Informal Resolution</u> – the first step involving a written complaint (Unit Level Grievance Form, Attachment I) by an inmate that is intended to allow staff the opportunity to resolve an issue on an informal basis; and to serve as a prerequisite to the second step, a formal grievance. (Note: Inmates alleging sexual assault, physical abuse, or sexual misconduct/harassment by staff are not required to complete step one, but should file a formal grievance (step two) directly to the Warden. Also note that an inmate cannot grieve on behalf of another inmate.

- B. <u>Grievance</u> the second (formal) step where a written complaint using the same form used for the Informal Resolution (Unit Level Grievance Form, Attachment I) is submitted by an inmate on the inmate's own behalf (an inmate cannot grieve on behalf of another inmate) regarding:
  - A policy applicable within his or her unit/center of assignment that personally affects the inmate;
  - 2. A condition in the facility that personally affects the inmate;
  - An action involving an inmate(s) of his or her facility that personally affects the inmate;
  - An action of an employee(s), contractor(s), or volunteer(s) at his or her facility that personally affects the inmate; or
  - An incident occurring within his or her facility that personally affects the inmate.
- C. <u>Warden</u> the Warden or Center Supervisor of the facility or designee.
- D. <u>Appeal</u> a written request to a Chief Deputy/Deputy/Assistant Director for further action to resolve the issue or complaint in the grievance based upon the inmate's belief that the issue has not been resolved at the Unit level. (The appeal cannot raise new or additional issues or complaints.)
- E. Working Days Monday through Friday, excluding state observed holidays.
- F. Emergency a problem, that if not immediately addressed, subjects the inmate to a substantial risk of personal injury or other serious and irreparable harm such as sexual assault, physical abuse, sexual misconduct or sexual harassment. Emergency grievances may be submitted without the completion of step one, the informal process; however, if the grievance is found to not involve a substantial risk of personal injury or serious and irreparable harm, it will be returned to the problem solver and processed under Step One.
- G. <u>Non-Grievable Issues</u> the following matters are not grievable:
  - Parole;
  - Release;
  - Transfer;

- 4. Job Assignments unless in conflict with medical restrictions;
- Disciplinaries;
- Anticipated events (i.e., events or activities which may or may not occur in the future);
- Matters beyond the control of the Department of Correction, including issues controlled by State or Federal law or regulation;

Note: Claims of Retaliation, even if related to an issue referenced above, are grievable.

- H. Remedies available do not include disciplinary action against employees, contractors, or volunteers, nor monetary damages. The policy violation/incident/action alleged in the grievance shall be investigated as a result of the particular grievance if not previously grieved or otherwise prohibited under this grievance policy.
- I. Problem-Solving Staff staff designated at each facility to serve as a contact for resolution of a problem or complaint, and specifically, to resolve step one issues raised in this process. A list of these individuals will be posted in each housing unit. If the problem solver(s) is not available, any staff member of the rank of sergeant or above can collect step one grievances (also referred to as "informals") and shall then act as the problem solver for that step one grievance.
- J. <u>Medical Department</u> Health Services Administrator (HSA) or designee.
- K. <u>Mental Health Supervisor</u> the Department of Correction employee supervising the mental health staff and programs at the unit level.

# IV. PROCEDURES:

The inmate grievance procedure is an internal administrative means for the resolution of complaints and the identification of potentially problematic management areas; however, it does not replace daily and routine communication between inmates and staff. Prior to filing a formal grievance, inmates must first attempt to resolve the complaint informally by taking Step One under this policy.

One form (Attachment I) will be used for both Step One (informal resolution), and for Step Two (formal grievance). This same form will be used to submit all inmate grievance issues, including emergencies.

# A. Adoption of Procedure

When adopting changes to this procedure, that affect the inmate grievance process, proposed changes shall be posted in prominent locations (to include employee and inmate bulletin boards) throughout the institution at least 30 days prior to the adoption of the procedure/changes. All comments shall be considered

prior to adoption of the changes and shall be kept as part of the appropriate policy file documentation. Inmates in isolation units will be provided a copy by the Grievance Officer at least 30 days prior to the adoption of the procedure/changes.

#### B. Communication of Procedure

- Written notification of the Inmate Grievance Procedure will be distributed to both inmates and employees. In addition, arriving inmates and new employees will have an opportunity to ask questions about the procedure and have them answered verbally.
- If an inmate has a disability affecting communication or is not fluent in the English language, interpretive or explanatory services will be made available.
- All employees at the facility level shall receive training by designated staff
  in the skills necessary to assist or participate in the inmate grievance
  procedure.

## C. Accessibility

All inmates shall be entitled to utilize this procedure regardless of their security status, custody level, job classification, disciplinary status or any administrative/judicial decisions affecting the inmate.

- Copies of this policy shall be available for examination in each Unit's Law Library.
- 2. The Attachment I grievance form shall be readily available to any inmate in any housing area at any time; however, no more than five (5) forms per week, except in the case of an emergency as defined in this policy, may be requested by an individual inmate, see J(1)(a). Additionally, inmates may not have more than ten (10) blank Attachment I grievance forms in their possession at any one time, and no more than twenty (20) unsubmitted (not signed by a problem solver) Attachment I grievance forms in their possession at any one time.
- Inmates may request one copy of their grievance from the facility
  grievance staff upon presenting a completed Section 1983 lawsuit or
  Claims Commission claim. The inmate also needs to give the grievance
  number for the particular grievance he/she is requesting.
- 4. Grievances must specifically name each individual involved for a proper investigation and response to be completed by ADC. Inmates must fully exhaust the grievance prior to filing a lawsuit. Inmates who fail to name all parties during the grievance process may have their lawsuit or claim

dismissed by the court or commission for failure to exhaust against all parties.

## D. Completion of Forms

- Inmates who have difficulty understanding how to complete the grievance forms or actually completing the forms should request and be provided assistance from staff. However, there is no prohibition against an inmate seeking assistance from another inmate IF the grievant has language barriers or cannot read or write.
- Only one Unit Level Grievance Form (Attachment I) can be submitted per grievance and only one problem/issue should be stated in the grievance, not multiple problems/issues. An inmate must use a separate form for each issue. Only one issue will be addressed. Additional problems/issues contained in the grievance will not be considered as exhausted. Exhaustion of an issue is required prior to filing a lawsuit under the Prison Litigation Reform Act of 1995 on that issue.
- If the inmate is legally using a name other than the name under which he
  or she was committed to the Arkansas Department of Correction, both the
  legal and commitment names shall be used when completing the forms.
- All forms should be filled out in black or blue ink. Tape and other adhesive substances should not be used on any grievance forms.
- If any Grievance Form is received in an unsanitary condition, that form(s)
  may be photographed and logged and/or held for evidence for appropriate
  disciplinary action against the inmate. Unsanitary forms will not be
  processed.

# E. Step One: Informal Resolution Procedure

Inmates are required to attempt informal resolution of a problem/complaint prior to filing a grievance.

- The Unit Level Grievance Form (Attachment I) shall be completed and submitted within 15 days after the occurrence of the incident, with the date beside "Step 1: Informal Resolution" filled in.
- On the Unit Level Grievance Form (Attachment I), only in the space
   <u>provided</u>, the inmate should write a <u>brief statement</u> that is specific as to the
   substance of the issue or complaint to include the date, place, personnel
   involved or witnesses, and how the policy or incident affected the inmate
   submitting the form.

Additional sheets, including additional pages of the grievance written on Unit Level Grievance Forms (Attachment I) should not be attached and will be returned to the inmate upon submission or as soon as practical. ONLY THE STATEMENT IN THE SPACE PROVIDED ON ONE ATTACHMENT I WILL BE MAINTAINED AND CONSIDERED THE GRIEVANCE SUBMISSION.

- 3. The Unit Level Grievance Form (Attachment I) should be presented to one of the individuals whose name is posted in the housing unit as a designated problem-solver. If a problem solver is not available, any staff member holding the rank of sergeant or above can collect step one grievances and shall then act as the problem solver for that step one grievance. At this time the problem-solver or staff member must sign and date the form, giving the inmate back the yellow and pink copies as receipts.
- After receipt of the informal complaint (Attachment I), the problem-solver will:
  - meet with the inmate within three working days to resolve the issue; or
  - meet with the inmate immediately to resolve the issue if it is an emergency; or
  - c. refer medical issues to the HSA (examples include, but are not limited to, missed medications, inability to access medical services, failure to be seen at Sick Call or clinic appointments, or failure to receive lab or test results) as soon as practical, but in any event within one working day; or
  - refer mental health issues to the Mental Health Supervisor as soon as practical, but in any event within one working day.
- 5. An emergency situation is one in which the inmate is subjected to a substantial risk of physical harm such as sexual assault, physical abuse, staff sexual misconduct, or staff sexual harassment. It should not be declared for ordinary problems that are not of a serious nature. If the inmate believes the matter to be an emergency, he/she will fill in the date beside "Emergency Grievance" on the Unit Level Grievance Form to designate an emergency, and present the form to any staff, but preferably the designated problem-solving staff. If that staff determines that an emergency situation does exist, corrective action shall be taken as soon as possible and no later than twenty-four (24) hours. If no emergency is determined, the informal resolution form shall be processed within the normal time limits stated within this policy.
- Upon receipt of a Unit Level Grievance Form submitted under Step One, the HSA, or medical department representative appointed by the HSA, or

the Mental Health Supervisor will take whatever action is deemed clinically appropriate to fully resolve the problem, document the action taken, or state why no action is necessary or appropriate, and the HSA or Mental Health Supervisor or designee will sign the form in the space provided for the staff signature which is found on the same line as the inmate signature following the description of the action taken to resolve the complaint. Please note the staff signature should NOT be in the space provided for the signature of the designated problem-solver.

- 7. As soon as practical, the HSA, Mental Health Supervisor, or designee will return the Unit Level Grievance Form to the inmate, and provide a copy to the Grievance Officer. NOTE: In no event should this time frame exceed three (3) working days from submission of the Unit Level Grievance Form for Step One by the inmate to the problem-solver. The HSA, Mental Health Supervisor, or designee should not respond to a grievance that is alleging misconduct by that individual against the inmate; however, where the inmate still has another step in the grievance process to challenge the conduct and/or the inmate is alleging indirect misconduct (failure to act) as opposed to direct misconduct, such as physical abuse or retaliation, by the HSA or the Mental Health Supervisor, then the Regional Manager or Mental Health Administrator will respond after the medical or mental health department has appropriately logged the resolution.
- The HSA or Mental Health Supervisor will retain a copy for their records and for quality improvement purposes.
- 9. If the problem (those not referred to medical or mental health departments) can be resolved at the informal level, the problem-solver documents the action taken on the Unit Level Grievance Form (Attachment I) and then both the inmate and the problem-solver must sign and date the form.
- 10. If the problem cannot be resolved at Step One, the informal level, the problem-solver must still document the resolution attempt on Attachment I, and then the inmate and the problem-solver must sign and date the form. At this time, if the inmate chooses, he/she may now proceed to Step Two (the formal grievance) using this same form (Attachment I). See procedures for Step Two below.
- 11. If the designated problem-solver (or substituted person to resolve the issue such as a medical or mental health staff member) has failed to contact the inmate and attempt resolution of the complaint or failed to return Step One (the grievance) within the designated three working days, the inmate may proceed to Step 2, the formal grievance, without the completion of Step 1. In that instance, Step 2, the formal grievance, must be filed no later than six (6) working days from the submission of the Unit Level Grievance

Form pursuant to Step 1: this allows three (3) working days to wait for a response to Step 1, and three (3) working days to initiate Step 2. (These are not three (3) additional days, i.e., if the problem-solver returns Step One on the day it was submitted, the inmate has only three (3) working days from receipt of that response to file Step Two.) The inmate will submit a copy of his Unit Level Grievance Form using the pink copy he retained following the instructions for Step Two.

- 12. Whether or not the problem is resolved, the inmate retains the yellow copy, a copy may be retained by the designated problem-solver, and a copy is forwarded to the Grievance Officer for entry into the offender tracking system if necessary.
- 13. If an inmate has been transferred from the Unit where the incident or issue arose within the fifteen (15) days allowed to file Step One and the inmate submits Step One at a different Unit, if the problem-solver, HSA, or Mental Health Supervisor cannot address the issue, then the response to Step One should be "proceed to Step Two." Upon submission of Step Two, the Grievance Officer will complete the portion of the Unit Level Grievance Form indicating the date received and to whom it was sent and immediately forward the grievance to the Grievance Officer at the unit where the incident or issue arose to process with a grievance number from that Unit. The deadlines will remain the same under this procedure to submit the grievance steps, and to respond with the date of submission to the first Grievance Officer beginning the response time.

## F. Step Two, the Formal Grievance Procedure

After attempting to resolve their issue through Step One, informal resolution, an inmate can proceed to Step Two by filing a formal grievance on the *same* Unit Level Grievance Form (Attachment I) that was used for Step One.

- The inmate should complete the date beside "Step Two: Formal Grievance" and the section regarding resubmission (of this form) as to why the inmate considers the informal resolution unsuccessful, and deposit it into the designated grievance box; or submit it to a Staff Member if the inmate's assignment prevents access to the grievance box. The Grievance Officer shall collect grievance forms daily, excluding weekends and holidays.
- Additional sheets cannot be attached to the Unit Level Grievance Form and only information in the space provided will be considered part of the grievance submission. New issues cannot be added to the form and will not be considered.

- 3. Upon receipt, the Grievance Officer shall complete the box "for office use only" on the Unit Level Grievance form by assigning a number to the grievance (using unit and subject codes as described in the Grievance Procedure Codes-Attachment VII), and logging the date the grievance was received, inmate's name, ADC number, type of grievance, and the text of the inmate's complaint contained within the appropriate space on Attachment I in eOMIS.
  - All medical issues will be coded 600 by the Unit Grievance Officer. All mental health issues will be coded 630.
  - b. The Medical and Mental Health Departments will assign more specific type codes as indicated on Attachment VII into eOMIS when completing the response to the grievance.
- 4. The Grievance Officer shall then transmit an Acknowledgement or Rejection of the Unit Level Grievance Form (see Attachment II) to the inmate within five (5) working days after receipt. No acknowledgment is required if a written response to the grievance, signed by the Warden, Health Services Administrator, or Mental Health Supervisor or designees, can be provided within five (5) working days.
- 5. The Grievance Officer will note whether the grievance is medical or mental health related. If so, these grievances will be forwarded as soon as possible, and in no event later than five (5) days, to the appropriate medical or mental health department for investigation and response to the inmate.
  - a. If the grievance is medical in nature, it is forwarded to the Health Services Administrator (HSA) at the Unit Medical Department for a response. The HSA, or designee, should not respond to a grievance that is alleging misconduct by that individual unless the inmate still has another step in the grievance process to challenge the conduct, or the inmate is alleging indirect misconduct (failure to act); where the inmate is alleging direct misconduct (such as physical abuse or retaliation) by the HSA, then the appropriate Regional Manager will respond after the medical department has appropriately logged the resolution.
  - b. If the grievance relates to mental health services, the supervisor of mental health services for the facility, or designee, will answer the grievance. The Mental Health Supervisor, or designee, should not respond to a grievance that is alleging misconduct by that individual unless the inmate still has another step in the grievance process to challenge the conduct, or the inmate is alleging indirect misconduct (failure to act); where the inmate is alleging direct

misconduct (physical abuse or retaliation) by the Mental Health Supervisor, then the Mental Health Administrator at Central Office will respond after the mental health department has appropriately logged the resolution.

- The Inmate Grievance Worksheet (see Attachment VIII) may be used by staff when investigating grievances.
- 7. Every inmate shall receive a written response on either the form entitled Warden/Center Supervisor Decision (Attachment III) to his or her grievance, signed by the Warden or the Warden's designee within 20 working days of receipt (or less if an emergency situation) or the form entitled Health Services Response to Unit Level Grievance (see Attachment IV) if the grievance has been forwarded to the medical or mental health department for a response within this same 20 working days.

The Unit Level Grievance Response/Decision shall include:

- a. the reason for the decision, in clear, well reasoned terms; and
- a statement that the Grievance:

   has merit and requires further action for resolution; or
   has merit, but is being resolved; or
   had merit but has been resolved; or
   has no merit.
- 8. If an inmate has not received a response to his/her Unit Level Grievance within the allotted time frame as stated on the Acknowledgement Form and/or the Extension Form, if applicable, the inmate may move to the next level of the process, an appeal to the Chief Deputy/Deputy/Assistant Director's Level within five (5) working days.

The Grievance Extension Form will be used in cases where a longer period of time is required for a response or resolution of the problem. The inmate shall be notified by the responding authority, in writing, of the reason for the delay and its expected length on the Grievance Extension Form (see Attachment X). Time limits for responding will be extended automatically upon the completion of the Grievance Extension Form (Attachment X), unless the inmate disagrees in writing to the extension. If the inmate does not agree to the extension, the inmate understands and agrees that, with that decision, no further action will be taken on the issue, and the grievance will be returned to the inmate without a decision on its merit. By disagreeing with the extension, the inmate waives his or her right to have the grievance issue considered.

G. Steps to Appeal the Unit Level Grievance Decision:

After receiving a response from the Warden, the Health Services Administrator (HSA), the Mental Health Supervisor, or designees, if the inmate is not satisfied, he or she may appeal within five (5) working days to the appropriate Chief Deputy/Deputy/Assistant Director who will attempt to resolve the matter or assign an appropriate staff member to do so.

- The appeal must be written in the space provided on the original Warden/Center Supervisor's Decision Form (Attachment III), the Health Services Response to Unit Level Grievance Form (Attachment IV) for medical or mental health grievances entitled Inmate's Appeal (see Attachment III and IV), or the Acknowledgement or Rejection of Unit Level Grievance (Attachment II). Only what is written in the space provided for appeal will be considered part of the grievance appeal. Additional sheets should not be attached and will be returned to the inmate upon receipt of the appeal or as soon as practical. ONLY THE STATEMENT IN THE SPACE PROVIDED WILL BE MAINTAINED AND CONSIDERED PART OF THE APPEAL SUBMISSION.
- 2. The inmate must include the original Unit Level Grievance Form (Attachment I), which describes the matter originally grieved, and either the Warden/Center Supervisor Decision Form (Attachment III), the Health Services Response to Unit Level Grievance (Attachment IV), or the Acknowledgement or Rejection of Unit Level Grievance (Attachment II) if the inmate is asserting the grievance was improperly rejected or if the inmate did not receive a response or extension within the timeframe. If these two (2) pages are not submitted with the inmate's appeal portion completed, the appeal may be returned to the inmate as rejected.

To complete the appeal, the inmate must state a reason for disagreeing, and must date, sign, and write the inmate's ADC number on the attachment being appealed.

Do not list additional issues, requests and/or names which were not a part of the original grievance as they will not be addressed.

- 3. The Chief Deputy/Deputy/Assistant Director may process grievance appeals not meeting the criteria set forth above when necessary for the safety and security of the Department; however, further processing of the appeal where the inmate has failed to complete the required steps is at the sole discretion of the appropriate Chief Deputy/Deputy/Assistant Director.
- Appeals relating to medical, mental health or treatment program issues are submitted to the Deputy Director for Health and Correctional Programs.

All other grievances will be forwarded to the appropriate Chief Deputy/Deputy/Assistant Director for Institutions.

All Appeals will be answered by the Chief Deputy/Deputy/Assistant Director regardless of whether those individuals are named in the grievance.

- 5. Receipt of the appeal shall be acknowledged or rejected in writing within five (5) working days to the inmate by the Chief Deputy/Deputy/Assistant Director's Office (see Attachment V) unless a written response can be provided within five (5) working days to the grievance signed by the Chief Deputy/Deputy/Assistant Director.
- 6. The Chief Deputy/Deputy/Assistant Director will respond in writing to the inmate concerning the decision within thirty (30) working days unless there is an extension or the appeal is rejected and the inmate is notified of the reason for rejection on the Acknowledgment of Grievance Appeal/Rejection of Appeal form (see Attachment V). A written decision or rejection of an appeal at this level is the end of the grievance process.
- 7. If a grievance appealed is a duplicate of one previously appealed by the inmate with regard to the staff member named, the date of the incident, and the subject of the grievance, the inmate will be sent an Acknowledgment of Grievance Appeal/Rejection on Attachment V, and it will be noted as "Duplicate of \_\_\_\_\_" and the earlier grievance number will be filled in the blank; the duplicate will be returned to the inmate with the Attachment V.
- 8. The Grievance Extension Form will be used in cases where a longer period of time is required for a response or resolution of the problem. The inmate shall be notified by the responding authority, in writing, of the reason for the delay and its expected length on the Grievance Extension Form (see Attachment X). Time limits for responding will be extended automatically upon completion of the Grievance Extension Form (Attachment X), unless the inmate disagrees in writing to the extension. If the inmate does not agree to the extension, the inmate understands and agrees that, with that decision, no further action will be taken on the issue, and the grievance appeal will be returned to the inmate without a decision on its merit. By disagreeing with the extension, the inmate waives his or her right to have the grievance issue considered or exhausted.
- The entire grievance procedure should be completed within seventy-six
   (76) working days unless a valid extension has been executed, or it can be documented that unforeseen circumstances have occurred.

10. Release of the inmate from custody will normally terminate his or her grievance, unless the parties are under court order to exhaust remedies or the grievance highlights a problem that needs to be addressed at the discretion of the Chief Deputy/Deputy/Assistant Director.

#### H. Remedies

A grievance with merit will be afforded a reasonable range of meaningful remedies.

- The responsible authority will review the conditions, policies or practices grieved and take appropriate action.
- When a higher authority than the responding authority must authorize appropriate action, the lower authority shall note its agreement or disagreement with the inmate and transmit the completed grievance form to the higher authority with notice to the inmate.
- The department is to encourage the resolution of grievances found to have merit involving property losses, confiscations or forfeitures through the return of the property or replacement.
- Errors in record keeping may be corrected and action by the staff or Classification Committees may be modified as appropriate.
- No grievance should be discussed between employees and/or inmates except as necessary to obtain statements or to resolve the issues.
- 6. No employee should respond to a grievance that is alleging misconduct by that employee against the inmate unless (a) the inmate still has another step in the grievance process to challenge the conduct, or (b) the inmate's allegation was of indirect misconduct (conduct by omission); where the inmate is alleging direct misconduct (such as physical abuse) by the employee, the employee may not respond to the grievance.

# L Allegations of Abuse

Any credible allegations of excessive force, sexual contact, assault or similar physical abuse of an inmate will be forwarded to the Internal Affairs Division for an investigation consistent with Arkansas Department of Correction policies.

#### J. Abuse of the Grievance Procedure

Abuse of the grievance procedure by inmates will be dealt with in the following manner:

#### 1. Excessive Use of the Procedure

- a. Step One, Informal Resolutions, are limited to five (5) due to excessive submissions causing a delay in processing inmate grievances. The Warden or designee must maintain a record of five (5) submissions each week before rejecting one from that inmate. Only the first five (5) informal grievances, Step One, will require a response. The seven-day period will begin each Saturday and end on Friday. The submissions that exceed the limit will be marked as "No action necessary-exceeds weekly limit," followed by the staff person's name, signature and date verifying that person verified (1) that five (5) submissions under Step One had already been received from the inmate that week, and (2) it was not an emergency, and the form returned to the inmate.
- b. Inmates are only allowed to submit three formal grievances, Step Two, each seven-day period which begins each Saturday and ends on Friday. Only the first three formal grievances, Step Two. submitted each week by an inmate requires an investigation and response. This limit includes both institutional and medical or mental health grievances. All other formal grievances will be logged and reviewed to determine if an emergency exists. If it is determined to be an emergency situation, action will be taken promptly to resolve the issue; however, a written response to the inmate is not required. If no emergency exists, the grievance will be logged out on the same day received, and it shall be written on the Unit Level Grievance Form "No action necessary-exceeds weekly limit," dated and signed. The original grievance will then be placed in the grievance file and no written response will be given to the inmate.
- c. If the formal grievance is regarding a health issue, but exceeds the inmate's limit for weekly submission, the grievance officer will note at the top of the grievance form "EXCEEDS WEEKLY LIMIT." The formal grievance will then be forwarded to the medical or mental health department to determine if an emergency exists. If the medical or mental health departments determine the grievance to be an emergency, the Health Services Administrator or Mental Health Supervisor will ensure that prompt action is taken to resolve the issue; however, a written response to the inmate is not required. If neither the medical nor mental health departments determine the grievance to be an emergency, it will be noted at the top of the grievance form, "not an emergency" beside the "EXCEEDS WEEKLY LIMIT" statement, dated and signed by the Health Services Administrator or Mental Health Supervisor and returned to the Grievance Officer for filing.

- d. If a formal grievance is a duplicate of one previously submitted by the inmate with regard to the staff member named, the date of the incident, and the subject of the grievance, the duplicate grievance will be logged into eOMIS, the inmate will be sent a Rejection of Grievance on Attachment II, and note at the top of the grievance form as "Duplicate of \_\_\_\_\_" and the earlier grievance number will be filled in the blank; the duplicate will be returned to the inmate with the Attachment II and counted as one of the inmate's weekly submissions.
- e. If the duplicate grievance is regarding a health issue, the grievance officer will forward the logged grievance and Rejection of Grievance Attachment II to medical or mental health to determine if a response is necessary or an emergency exists. If necessary, the Health Services Administrator or Mental Health Supervisor will ensure that prompt action is taken to resolve the issue, and if not, the medial or mental health staff will note at the top, "no response necessary on duplicate," date and sign it, and return both the grievance and Rejection of Grievance Attachment II to the inmate.
- 2. Frivolous and Vexatious (Provoking or Harassing) Use of the Procedure
  - a. Frivolous or vexatious submission at any step will be logged and returned to the inmate with a Rejection form (Attachment II or Attachment V) and counted as one of the inmate's weekly submissions.
  - b. A submission is frivolous when it is clearly insufficient on its face to allege an issue or concern and is readily recognizable as devoid of merit and insufficient for resolution or appeal.
  - c. A submission is vexatious when it merely agitates, provokes, harasses or irritates by petty provocation and is not designed to lead to any practical result, resolution, or appeal.
- Use of Indecent or Vulgar Language

Inmates who use the grievance procedure to direct threats, indecent or vulgar language at another person shall be referred to the appropriate disciplinary authorities in accordance with the disciplinary rules and procedures. The submission will be processed if it is not frivolous, vexatious, or duplicative if it otherwise complies with this policy.

4. Malicious Use of the Procedure

- a. Any inmate who knowingly makes false statements in a submission for the purpose of harming another person may be charged with the appropriate disciplinary offense. The submission will be processed if it is not frivolous, vexatious, or duplicative if it otherwise complies with this policy.
- b. The following procedure is to be followed when it is suspected that an inmate has knowingly made false statements for the purpose of harming another person. The problem-solver will forward the informal grievance to the Grievance Officer; however, no officer, including the problem-solver, shall file an incident report or disciplinary based on the alleged false statements in the informal grievance. The Grievance Officer will make an independent review of the informal grievance to determine if it appears that a disciplinary should be considered against the inmate. If the Grievance Officer concludes there is a sufficiently strong case for proving that the inmate has made objectively false statements about someone, then the Grievance Officer will report those findings to the Deputy/Assistant Warden. The Deputy/Assistant Warden, or designee, may write and submit a disciplinary report for processing or request further investigation by Internal Affairs.

## K. Reprisals or Retaliation

- No inmate shall suffer any threat or action based on his or her appropriate use of, or participation in, the grievance procedure. If an inmate believes he/she has been retaliated against for the use of the grievance procedure, he/she must contact the Warden/Center Supervisor or in a case of alleged retaliation by the Warden/Center Supervisor the inmate shall contact the appropriate Chief Deputy/Deputy/Assistant Director. Regardless, the inmate must exhaust their remedies through the grievance process.
- Under such circumstances as described in section J.3 and 4, the Chief Security Officer or Deputy/Assistant Warden, or designee, will determine if a disciplinary report is warranted. If so, only the Chief Security Officer or Deputy/Assistant Warden, or designee, may write and submit the disciplinary report for processing.
- Any reprisals or retaliation by staff is absolutely prohibited and will be dealt with in accordance with the appropriate policy regarding employee conduct and discipline. All personnel shall receive written and oral notice that formal and/or informal reprisals will not be tolerated.

The Training Academy has implemented a training program regarding inmate problem resolutions and complaints. The training is mandatory for all staff involved in the inmate grievance process.

- Once an inmate initiates the grievance process, the process shall be followed through all stages without interference by administrators or employees of the department.
  - Anytime an inmate voluntarily decides to withdraw a grievance, he or she must submit a Grievance Waiver Form (see Attachment IX). The appropriate staff will verify receipt of the waiver in writing.
- If reprisal or retaliation is suspected and/or determined after the unit/center investigation, the grievance shall be forwarded to Internal Affairs for further review with all relevant documentation.

#### L. Records

- Each designated administrator at each level of response shall collect and systematically maintain records regarding the filing and disposition of grievances. These records may be maintained pursuant to the Department's record retention policy in either hard copy or in a retrievable form, as well as in the inmate's electronic record, and shall be available for inspection as required by law.
- 2. At a minimum, such records shall include aggregate information regarding the numbers, types and disposition of grievances, as well as individual records of the dates and reasons for each disposition at the formal grievance (Step Two) and appeal stages of the procedure and shall be logged in the electronic offender records system. Such records shall be preserved in accordance with the policy regarding records retention.
- Records regarding the participation of an individual in grievance proceedings shall not be available for review by any inmate(s) other than the grievant.
- 4. Grievance records, including statements and testimony provided during the process, are confidential and are not available to inmates. Department personnel other than those directly involved in the grievance process may not have access to the information, unless the person's job requires access to such records.
- 5. Except as otherwise provided by Arkansas law, grievance records will not be available to non-departmental personnel other than those representing the Department of Correction or providing services such as imaging or destruction of records under an agreement with the Department of Correction.

- No entries concerning grievances, or an inmate's participation in a grievance proceeding through testimony or submission of evidence, shall be recorded in the inmate's paper institutional file.
- Only those positions authorized by the appropriate Chief Deputy/Deputy/Assistant Director will have access to the Grievance Tracking Program.

#### M. Evaluation

- Monthly, quarterly and annual reports may be generated from the tracking system.
- Records of staff efforts at problem solving may be considered by supervisors evaluating the performance of staff.

## N. Prison Litigation Reform Act Notice

Inmates are hereby advised that they must exhaust their administrative remedies as to all defendants at all levels of the grievance procedure before filing a Section 1983 lawsuit and Claims Commission claim. If this is not done, their lawsuits or claims may be dismissed immediately.

Inmates must attach a copy of the Chief Deputy/Deputy/Assistant Director's response to any petition or complaint; otherwise the court or commission may dismiss the case without notice.

Inmates are also advised that they shall be subject to paying filing fees in Federal Court pursuant to the Prison Litigation Reform Act of 1996.

#### V. REFERENCES:

ACA Standards: 4-4127, 4-4284, 4-4394 Prison Litigation Reform Act of 1995

#### VI. ATTACHMENTS:

Attachment I - Unit Level Grievance (Informal Resolution/Formal Grievance/Emergency Grievance)

Attachment II - Acknowledgment of Unit Level Grievance

Attachment III - Warden/Center Supervisor's Decision/Inmate Appeal

Attachment IV - Health Services Response to Unit Level Grievance

Attachment V - Acknowledgment of Grievance Appeal/Rejection of Appeal

Attachment VI - Chief Deputy/Deputy/Assistant Director's Decision

Attachment VII - Grievance Codes

Attachment VIII - Inmate Grievance Investigation Worksheet

Attachment IX - Grievance Waiver

Attachment X - Grievance Extension

# UNIT LEVEL GRIEVANCE FORM

## Attachment I

Unit/Center			FOR OFFICE USE ONLY
Name			GRV. #
ADC#	Brks#	Job Assignment	Date Received:
(Date	STEP ONE: Informal	Resolution	GRV. Code #:
	STEP TWO: Formal C as not resolved during S		ns should first be handled informally.)
4.4		(Date)	A Control Services
a substantial risk serious nature).	of physical harm; emer If you marked yes, give		ch you may be subject to ordinary problems that are not of a esignated problem-solving staff, who will
<b>BRIEFLY</b> state		ncern and be specific as to the	If yes, circle one: medical or mental complaint, date, place, name of
-			
Inmate Signature		Da	ite
		our use of the grievance process,	, report it immediately to the Warden or
designee.	mine or emic	NEC DE EULY ED OUE DE	COLUMN CANAL
This form was re		N TO BE FILLED OUT BY	STAFF ONLY Step One and/or an Emergency
			nental health? (Yes or No). If yes, name
		g this form:	
	The second second		
	PROBLEM SOLVER) ID aken to resolve complain		Date Received
Describe action to	aken to resorve complai	int, including dates.	
Print and Sign St	aff Name & Date Retu	rned Inmate Signature &	& Date Received
This form was re-		), pursuant to Step Two. Is it	an Emergency? (Yes or No).  Date:
Action Taken:	(Forw	varded to Grievance Officer/W	/arden/Other) Date:
		ceiving this form:	

**DISTRIBUTION:** YELLOW & PINK – Inmate Receipts; BLUE-Grievance Officer; ORIGINAL-Given back to Inmate After Completion of Step One and Step Two.

To: Inmate		ADC#	
From:	Title:	Grievance	#
Please be advised I hav	e received your Grievance dated	on _	
You should receive cor	nmunication regarding the Grievance	byOR	
Your grievance was rej	ected as either non-grievable, untime	y, duplicative, frivolous, o	r vexatious.
	CHECK ONE OF TH	E FOLLOWING	
This Gri	evance will be addressed by the Ward	len/Center Supervisor or de	esignee.
	evance is of a medical nature and has trator who will respond.	been forwarded to the Hea	alth Services
	evance involves a mental health issue or who will respond.	and has been forwarded to	the Mental Health
This Gri	evance has been determined to be an	emergency situation, as yo	u so indicated.
Action T	aken:		
subject t	evance has been determined to not be to a substantial risk of personal injury the will be processed as a non-emerger	or other serious irreparable	
	evance was REJECTED because it, a duplicate of, or was it		
and mailing it to the appropriate original complaint. Add	ion, you may appeal this decision within five riate Chief Deputy/Deputy/Assistant Director ress only the rejection; do not list additiona Your appeal statement is limited to what you	working days by filling in the Keep in mind that you are ap issues, which were not a part of	pealing the decision to of your original grievar
nmate Signature	ADC#		Date

	, D.G.	Attachment III	
INMATE NAME WARDEN/CENTER S		GRIEVANCE #	
WARDEN/CENTERS	UPERVISOR	5 DECISION	
Signature of Warden/Supervisor or Designee	Title	Dat	te
INMATE'	SAPPEAL		
If you are not satisfied with this response, you may apper information requested below and mailing it to the appro- mind that you are appealing the decision to the original co- of your original grievance as they will not be addressed.	priate Chief Deputy/Demplaint. Do not list ad-	eputy/Assistant Director. Keep in ditional issues, which are not a part	
space provided below.  WHY DO YOU DISAGREE WITH THE ABOV	/E DESDONSE?		
WILL DO 100 DISAGREE WITH THE ABOV	E KESI ONSE!		
Inmate Signature	ADC#	Date	

Signature of Health Services Administrator/Mental Health Supervisor or Designee & Title  Date  If follow up by Health Services Staff is required, are the details included in the response Yes or, No follow up is necessary  INMATE'S APPEAL  If you are not satisfied with this response, you may appeal this decision within five working days by filling information requested below and mailing it to the Deputy Director for Health & Correctional Programs. Kep at you are appealing the decision to the original grievance. Do not list additional issues which were not a your original grievance as new issues will not be addressed. Your appeal statement is limited to what you write space provided below.  WHY DO YOU DISAGREE WITH THE RESPONSE GIVEN ABOVE?	
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VHY DO YOU DISAGREE WITH THE RESPONSE GIVEN ABOVE?	mind part of
nate Signature ADC# Date	

# Acknowledgment of Grievance Appeal, or Rejection of Appeal

TO: Inmate	ADC#
FROM:	TITLE:
RE: Receipt of Grievance Appeal #	DATE:
Please be advised your Appeal dated	was received in my office on
You will receive communication from this office OR,	regarding this Grievance by,
Your grievance appeal is being returned pursua Grievances/Administrative Regulation 835 due t	
The time allowed for appeal has expired.	
The matter is non-grievable and does no	t involve retaliation.
Parole and/or Release matter	
Transfer	
Job Assignment (Unrelated to I	Medical Restriction)
Disciplinary matter	
Matter beyond the Department	s's control and/or matter of State/Federal law
Involves an anticipated event	
Request disciplinary action aga	inst employee, contractor, or volunteer
Claim for monetary damage	
You did not send all the proper Attachme	nts:
Unit Level Grievance Form (A	ttachment I)
Warden's/Center Supervisor's Response (Attachment IV for	Decision (Attachment III); or Health Services Health Issues Only)
Did not give reason for disagr	eement in space provided for appeal
Did not complete Attachment	III or IV by signing your name, ADC #, and/or the date
Unsanitary form (s) or docum	ents received
This Appeal was REJECTED frivolous or vexatious.	because it was a duplicate of, or was
divolous of venduous.	

Attachment VI

INMATE NAME	ADC#	GRIEVANCE #
		NT DIRECTOR'S DECISION
SIGNATURE		DATE

Please be advised that if you appeal this decision to the U.S. District Court, a copy of this Chief Deputy/Deputy/Assistant Director's Decision must be attached to any petition or complaint or the Court may dismiss your case without notice. You may also be subject to paying filing fees pursuant to the Prison Litigation Act of 1995.

#### **GRIEVANCE PROCEDURE CODES**

Each Unit/Center is assigned a unit code as follows:

BC Boot Camp	MC Mississippi County Work	PB Pine Bluff Unit
BU Benton Unit	Release	TU Tucker Unit
CU Cummins Unit	MCP McPherson Unit	TX Texarkana Regional Correctional
DR Delta Regional Unit	MX Maximum Security Unit	Center
EA East Arkansas - population	NC North Central Unit	VU Varner Unit - population
EAM East Arkansas - Max Sec	OR Ouachita River Corr. Unit	VSM Varner Super Max
GR Grimes Unit	SNU Special Needs Unit	WR Wrightsville Unit
RLW Randall L. Williams Facility	NW Northwest AR Work Release	WHM Wrightsville Hawkins Males
HA Hawkins Unit		

Which is succeeded by the last two digits of the calendar year, followed by a five digit sequential number beginning with 00001 (i.e., CU-03-00001).

## GRIEVANCE TYPE CODES

100	Transfer	505	Inmate Property Claims
101	Unit Transfer	506	Clothing - Bedding/Footwear
102	Interstate Compact	507	Activity Rotation
		508	Living Conditions
200	Institutional Assignment	509	Working Conditions
201	Cell Barracks	510	
202	Job	511	CHI 1 T T T T T T T T T T T T T T T T T T
203	Classification	512	Searches
204	Enemy Alert List	513	Contraband/Confiscation Forms
205	Protective Custody	514	Alternative Meals
206	Punitive	515	Hunger Strike
207	Administrative Segregation	516	Diet
208	School/Vocation Training	244	31.4.3
209	Rehabilitation Programs	600	
210	Counselors	601	
211	Investigative Status - DCR	602	
212	48 Hour Relief Privileges	603	
		604	
300	Communication	605	
301	Visits (non-legal)	606	
302	Telephone	607	Food/Special Diet
303	Radio/Television/Movie	608	Medication/Pill Call - not otherwise
304	Interview Request	000	specified
305	Unit Policy/ADC Policy		specified
306	Publication		
307	Mail		GRIEVANCE TYPE CODES
308	Marriage		
400	Disciplinary Matters		
225	W. Wild Carter and	609	Medical Classification
500	Institution Operations	610	Hearing
501	Food/Food Services	611	Housing conditions (medical reasons)
502	Commissary	612	Chronic Care
503	Inmate Funds	613	Chronic Care not seen
504	Sanitation – Showers, etc.	614	Chronic Care rx's not prescribed
			The second secon

617 Sick Call r 618 Sick Call r 619 Other 620 Dental 621 Dental Pro	o security escort ot seen timely eferred not seen	709 710 711 712 713	Retaliation/Harassment – Access to Courts Rights Notary Services Access to Grievance Forms Storage of Legal Materials Legal Mail
617 Sick Call r 618 Sick Call r 619 Other 620 Dental 621 Dental Pro	ot seen timely eferred not seen	710 711 712	Notary Services Access to Grievance Forms Storage of Legal Materials
617 Sick Call r 618 Sick Call r 619 Other 620 Dental 621 Dental Pro	ot seen timely eferred not seen	711 712	Access to Grievance Forms Storage of Legal Materials
619 Other 620 Dental 621 Dental Pro		712	Storage of Legal Materials
620 Dental 621 Dental Pro	sthetics		
621 Dental Pro	sthetics	713	
The state of the s	sthetics		No Response to Grievance
622 Medical A		714	Other Legal Matters
otherwise	ppointments (outside not specified)	715	No Further Action is Necessary (NFAN)
623 Surgery		716	Freedom of Information Act (FOIA)
		717	Multiple Issues Grieved
630 Mental He		718	Welfare
	alth Appointments	719	Copies Made
	alth - Medication side	720	Retaliation - other
effects		721	Loss of Property
	alth – Housing		
640 Medication		800	Complaints Against Staff
	prescribed	801	Physical Abuse
642 OPM medi	3 - 3 - 3 - 3 - 3 - 3 - 3 - 3 - 3 -	802	Verbal Abuse
643 Medication	not ordered	803	Other Complaints Against Staff
644 Medication		000	0.1
645 Medication	pharmacy error	900	Other
650 Co-pay		901	Good Time
651 Lab		902	Furlough
652 X-ray		903	Other Complaints Against
653 Treatment	call		Inmates/Cellmate
654 Informal re	solution not answered	904	Time Computation
655 Consults		905	Hobby Craft
		906	Religion
700 Legal		907	Parole Matters
701 Access to c	ourts	908	Discrimination (Race, Religion, Sex
	nate Supplies	202	etc).
703 Law Books		909	Name Change
		910	Urine Testing
<ul><li>704 Law Librar</li><li>705 Legal Visit</li></ul>	s with Inmate	911	Work Release
_		912	Maintenance
706 Other Lega	VISITS	913	Grieving for Another Inmate
Attachment V	II (Page 2)	914	Detainer Removed
	Harassment – Use of		

the Grievance Process

Attachment VIII

The below listed inmate has filed a grievance/appeal with this office. Please give a detailed statement in regards to the issue(s) stated by the inmate in this grievance. The statement, "I have no knowledge," is not acceptable. Also, please submit any supporting documentation with your response, (i.e., disciplinary, 005's, logs, medical information, other officer and/or inmate statements, etc.).

EMPLOYEE:	UNIT:

RE: INMATE:	ADC#	
FROM:	DUE DATE:	
GRIEVANCE #:	DATE & TIME OF INCIDENT	
Inmate's Complaint:		
	EMPLOYEE STATEMENT BELOW	iche seza et al de la companya de l La companya de la co
STATEMENT:		
Responding Staff Signatu	re	Date

You are not to retaliate against this inmate in any shape, form or fashion for submitting this grievance. If you are found to have retaliated against any inmate for using the grievance procedure, you will be subject to disciplinary action, which may be a verbal warning, a written warning, and/or termination.

or

# **GRIEVANCE WAIVER**

TO:	DATE:	
FROM:	SUBJECT:	
I,	, ADC#	, do hereby
agree that grievance number	, dated	, has been
coercion of any type.		
Inmate Signature		
Date		
Witness Signature		
Date		

# **GRIEVANCE EXTENSION**

TO: Inmate	ADC	<b>#</b>
ROM: TITLE:		
DATE:	GRIEVANCE #	
ADDITIONAL TIME IS NECE	SSARY IN ORDER TO:	
YOU WILL RECEIVE COMMUN	ICATION FROM THIS OFFICE BY:	
no action is required on you complete the signature line a understand that, with your d	unless you specifically disagree; if yer part. If you DO NOT agree to an early return the original to this office. ecision, NO FURTHER ACTION we your administrative remedies, and yearding its merit.	extension, check DISAGREE, If you do not agree, you vill be taken on this issue, you
DISAGREE By disagreeing with this extension, I waive my right t grievance issue considered.		I waive my right to have this
Inmate Signature	ADC#	DATE:
Warden/Center Super	visor Signature	DATE:
		DATE: