



<u>ADMINISTRATIVE REGULATION</u>		REGULATION NUMBER 850-04	PAGE NUMBER 1 OF 10
 COLORADO DEPARTMENT OF CORRECTIONS		CHAPTER: Offender Personnel	
		SUBJECT: Grievance Procedure	
RELATED STANDARDS: ACA Standards 2-CO-3C-01, 4-4284, and 4-4429-1		EFFECTIVE DATE: December 15, 2005	
		SUPERSESION: 04/15/05	
OPR: OLS	REVIEW MONTH: August	 Joe Ortiz Executive Director	

I. POLICY

It is the policy of the Department of Corrections (DOC) to encourage good communication between staff and offenders, and to contribute to the safety of staff and offenders, and the better administration of a correctional facility.

II. PURPOSE

The DOC intends to maintain a grievance process [2-CO-3C-01] available to all offenders, which provides an open and meaningful forum for their complaints, is subject to clear guidelines, and includes at least one level of appeal. [4-4284]

III. DEFINITIONS

- A. ***ADA Inmate Coordinator (AIC): That person described in the Montez Remedial Plan located in the Office of Correctional Legal Services, DOC Central Office. [4-4429-1]***
- B. ***Americans with Disabilities Act: 42 USC section 12101 et seq. as signed into law on July 26, 1990. Also referred to as the "ADA."***
- C. ***Institution: State operated or contracted prison or other correctional facility.***
- D. ***Offender Grievance: A written complaint by an offender on the offender's own behalf regarding a policy, condition, or an incident pertaining to the offender's confinement.***
- E. ***Offender Grievance Officer: An individual designated by the executive director who is outside the supervision of the DOC and is assigned to review, investigate, and respond in the final disposition of an offender's grievance.***

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- F. Remedy: A meaningful response, action, or redress requested by the offender grievant at the step 1, 2, or 3 level which may include modification of institutional policy, restoration of or restitution for property, or assurance that abuse will not recur. DOC staff discipline/reprimand, damages for pain and suffering, and exemplary or punitive damages are not remedies available to offenders.
- G. Reprisal: Any action or threat of action against anyone for the good faith participation in the grievance procedure.

IV. PROCEDURES

A. Prerequisites to Filing a Grievance

1. Upon entry into the Department of Corrections, each offender shall receive written notification and oral explanation of the grievance procedure. Reasonable accommodations shall be made to ensure all offenders with qualifying disabilities understand the grievance process.
2. The grievance procedure is available only to offenders sentenced to the Colorado Department of Corrections. This includes CDOC offenders housed in private facilities and offenders who have been released to parole, community, or ISP supervision. Interstate transfer offenders specifically waive access to the CDOC grievance procedure.
3. It is preferred that offender problems and complaints be resolved by staff and offenders in the area of the institution where the problem or complaint arose; and, whenever possible, through discussion or dialogue. Problems that are not solved by staff and offenders through dialogue and discussion shall be addressed by following the procedures in this administrative regulation.
4. This grievance procedure may not be used to seek review of COPD convictions, administrative segregation placement, decisions of the Reading Committee, classification, sex offender designation, parole board decisions, or sentence computation. Code of Penal Discipline convictions, administrative segregation placements, parole board decisions, and decisions of the Reading Committee have exclusive appeal procedures. Classification is entirely at the discretion of the administrative head and classification committee of each institution. Sex offender designation and sentence computation arise from judicial proceedings involving individual offenders and require judicial review and adjustments. Decisions of the grievance officer are not grievable. **Calculations and/or awards of meritorious/earned time credits are grievable.**

B. Filing a Grievance

1. General Principles
 - a. An offender may only pursue a grievance concerning a problem that affects the offender personally and shall pursue it without the assistance, involvement, or intervention of an agent or attorney.

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- b. Each offender shall be entitled to invoke this grievance procedure in a broad range of complaints including, but not limited to: policies and conditions within the institution that affect the offender personally, actions by employees and offenders, and incidents occurring within the institution that affect the offender personally.
- c. Reprisals for the good faith use of or participation in the grievance procedure are prohibited. An offender shall be entitled to file a new grievance alleging that such a reprisal occurred.
- d. An offender who requires accommodation to file a grievance or who is otherwise unable to complete the grievance form is authorized to obtain assistance from other offenders, if the assistance requested does not interfere with the security of the institution. Assistance shall be provided in accordance with facility policy. Offenders are allowed to maintain only their own grievances in their personal possession and in their cells. Violations may result in COPD charges. In cases where case manager or offender assistance is either not available, or cannot be made available, the administrative head, or designee, shall appoint a staff member to assist the offender.
- e. Unless otherwise ordered by the administrative head, or designee, the grievance form and procedures shall be made readily available to all offenders and shall be distributed by the staff member designated by the administrative head.
- f. Grievances which are duplicative or repetitive of the offender's prior grievances shall be denied.
- g. Offenders who file multiple or frivolous grievances in a short time period shall be warned, in writing, by the administrative head, or designee, that they are infringing on the rights of others to resources for response. In the event an offender continues to file excessive grievances after warning, the administrative head, or designee, may limit the number of grievances filed by the offender but must allow him/her the ability to file at least one grievance per month.
- h. Grievances mailed directly to the grievance officer or AIC by offenders will be immediately returned to the offender for proper submission at the facility.

2. Grievance Format

- a. All grievances shall be submitted on the "Colorado Department of Corrections Offender Grievance Form" (Attachment "A").
 - 1) The grievance shall be legible and all identifying data shall be properly completed.
 - 2) The grievance shall clearly state the basis for the grievance and the relief requested in the space provided on the form. Additional pages will not be considered except at the Step 3 level when relevant exhibits may be

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attached if they are reasonably related to proving the claim to the grievance officer.

- b. The signature of the offender on the grievance form shall be evidence that the offender grants permission, and is waiving confidentiality to the Department of Corrections employees and the grievance officer to inquire into the offender's records.

3. Grievance Substance

- a. Each grievance shall address only one problem or complaint and include a description of the relief requested. Problems that arise from the same incident or set of facts shall be grieved in one grievance even though it may involve multiple staff members.
- b. A substantive issue may not be added at a later step if it has not been contained in each previous step of that particular grievance. All issues and remedies contained in the original grievance must be incorporated into each subsequent step of the grievance. Failure to renew each element of the complaint and/or requested relief in subsequent steps shall be deemed a waiver of those elements and/or requested remedy.
- c. ADA grievances shall not be designated as such simply because the offender is disabled. To be classified as an ADA grievance, the subject matter must be based upon a denial that an offender has a qualifying disability pursuant to the ADA or the failure to accommodate a qualifying disability.
 - 1) The "Request for Accommodation/Verification of Disability" (Attachment "C") and "Offender Consent for Disclosure of Confidential Information" (Attachment "D") shall be properly completed by the offender. The verification of disability must be completed by the screening physician and a signed accommodation resolution served upon the offender prior to initiating a Step 1 ADA grievance.
 - 2) If the screening process is incomplete and the offender has not received an accommodation resolution from the AIC, or the offender has never properly submitted attachments "C" and "D" to the AIC, the grievance shall not qualify for consideration under ADA guidelines and the grievance shall be denied on procedural grounds without prejudice.
 - 3) It is the sole responsibility of the offender to appropriately designate a grievance as ADA or non-ADA in the space provided on the grievance form.

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4. Procedural Requirements

- a. At each step, the offender must attach a copy of all previous steps and responses. Grievances that are submitted without copies of former steps and responses shall be denied on procedural grounds. The offender in that case will not have exhausted administrative remedies.
- b. Offenders shall file Step 1, Step 2, and Step 3 grievances (Attachment "A") with their case manager, or other staff member designated by the administrative head, who shall forward the grievance to the facility grievance coordinator for processing.
- c. Grievance coordinators shall, at a minimum, include in their processing the logging in computerized grievance database, routing, and tracking of each grievance filed with their facility.
- d. Grievances received at facility or Step 3 level that have not been processed, logged at the facility level will be returned to the grievance coordinator for proper handling.

C. Responding to a Grievance

1. Staff or the grievance officer shall sufficiently investigate the circumstances surrounding the problem or complaint and the remedy requested to formulate a meaningful response. Anyone who participates in addressing any grievance is prohibited from disclosing medical or mental health information, except to the extent necessary to investigate the grievance.
 - a. Step 1 grievances shall be investigated and answered by the involved staff member together with a staff member appointed by the administrative head, or designee. Step 1 ADA grievances shall be investigated and answered by the AIC, or designee.
 - b. Step 2 grievances shall be investigated and answered by the administrative head, or designee. Step 2 ADA grievances shall be investigated and answered by the director of Prisons, or designee.
 - c. Step 3 grievances shall be investigated and answered by the grievance officer.
 - 1) The grievance officer may deny the grievance substantively. When a grievance is denied after a review of the substantive issues, the grievance officer shall certify in the response that the offender has exhausted the grievance process.
 - 2) The grievance officer may deny the grievance on procedural grounds, without addressing the substantive issues, if the grievance is incomplete, inconsistent with a former step, incomprehensible, illegible, requests relief that is not available, fails to request relief, or in any other way fails to comply with the provisions of this regulation. When a grievance is denied

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for a procedural error, the grievance officer shall certify in the response that the offender has **not** exhausted the grievance process.

- 3) The grievance officer may recommend granting relief after conferring with the administrative head, or designee. The recommendation shall be made to the executive director. The executive director shall, within five working days of receipt, consider the recommendation and determine what relief, if any, is appropriate.
 - 4) Step 3 grievance responses shall be sent directly from the grievance officer to the offender. The decision of the grievance officer is the final agency action.
2. Each grievance shall be answered, in writing, at each level of decision and review. The response shall state the reasons for the decision reached. The response shall be signed and include the typewritten name of the respondent and his/her staff ID number.
 3. If the responding staff member elects to answer a grievance with a separate memo rather than in the space provided on the grievance form, the memo shall contain all identifying characteristics of the form, e.g., offender name, DOC number, grievance tracking number, step, etc.
 4. Multiple grievances in an institution that concern the same subject matter may be addressed in one general published response by the administrative head, or designee. The response shall be signed and posted in an area where all offenders in the institution have access. A copy of the response shall be provided to the grievance officer. The published response shall serve as the official response for all similar grievances for a period of six months, unless there is a substantial change in the procedures, policies, or regulations pertaining to the subject matter of the response. When a multiple grievance response is filed, an offender may consider the multiple response as the Step 1 and 2 response, and the published response shall be referenced on the grievance forms. The offender may then proceed to a Step 3 grievance.
 5. The facility administrative head shall be consulted if the grievance response/remedy may impact facility operations.
 6. Upon completion of the written response, Step 1 and Step 2 grievances and responses shall be forwarded to the facility grievance coordinator who shall cause service to be made upon the offender and who shall provide copies to appropriate offices of record.
 - a. The AIC is the official custodian of all ADA grievances. The facility grievance coordinator shall ensure that the grievance containing the original signatures is returned to the AIC for filing. Copies are to be provided to the offender and offices of record after the offender has signed for receipt of the grievance.
 - b. Original grievances shall be forwarded to the AIC in a timely manner.

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7. It is the responsibility of the administrative head to ensure that procedures are in place to provide offenders with a source for obtaining two free photocopies of each answered grievance, one for the purpose of attaching to subsequent grievance steps and one for the offender's personal records.

D. Time Limits

1. All grievances must be responded to within the time limits stated in this regulation.
 - a. A Step 1 grievance must be filed no later than 30 calendar days from the date the offender knew, or should have known, of the facts giving rise to the grievance.
 - 1) The 30 day time period for an ADA grievance shall begin on the date the offender is served with the accommodation resolution.
 - 2) It is the responsibility of the offender's case manager to advise the AIC of the date of service of the accommodation resolution upon the offender. Notification shall be made via email.
 - b. The offender shall receive a written response to each Step 1 and Step 2 grievance within 25 calendar days of its receipt by the responding staff member. Step 3 grievances shall be answered within 45 days of receipt by the grievance officer.
 - c. When an offender wishes to proceed to the next step in the process, the offender shall file the next step within five calendar days after receiving the response.
 - d. In the event the time limit concerning any step of the process expires without a response, the offender may proceed to the next step within five calendar days of the date the response was due.
2. When a good faith investigation into the issue alleged in the grievance will proceed past the time limitation, the offender will be notified in writing.

E. Emergency Procedures: The executive director, or designee, shall implement these emergency grievance procedures when there are indications of potential and substantial risk to the life or safety of the offender, or when irreparable harm to the offender's health is imminent.

1. An offender who articulates an emergency to his/her case manager or other staff member shall be directed to complete a grievance form which will be immediately forwarded to the administrative head, or designee, for review. The administrative head, or designee, after consulting with the appropriate department, shall determine if an emergency exists.
 - a. If an emergency does exist, a remedy shall be devised and implemented. A written response documenting the remedy must be rendered within three business days and provided to the offender.

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- b. If, after consultation with the appropriate persons, the grievance is determined to not be an emergency, it shall be routed through normal channels as a Step 1 grievance. Procedures outlined in this AR shall apply.
2. If the grievance is determined to be an emergency, but is nevertheless denied on the substantive issue, an offender may appeal to the administrative head, or designee, immediately upon being advised of the decision. The administrative head, or designee, shall direct the appeal to the executive director, or designee, by telephone.
3. An offender may file an emergency grievance **based upon a denial that he/she has a qualifying disability pursuant to the ADA or failure to accommodate a qualifying disability**. The offender must submit the grievance to his/her case manager.
 - a. The case manager will immediately forward the emergency grievance to that facility's health services administrator (HSA), or designee, for review. The HSA will consult with the AIC and a decision will be rendered. If the grievance is determined to be an emergency, the offender shall receive a response within three business days. If the situation is life-threatening, the grievance will be addressed immediately.
 - b. If the grievance is determined not to be an emergency, it shall be sent to the AIC as a Step 1 grievance. The procedures outlined in this AR governing ADA grievances shall apply.
 - c. If the offender is dissatisfied with the response, he/she may immediately request a review of the decision by submitting the grievance to the case manager. The case manager shall immediately fax it to Central Office for review by the chief medical officer, in consultation with the AIC. A decision shall be made within three business days.
 - d. The grievance(s), together with the written response(s), shall be forwarded to the AIC.

F. Record Keeping

1. A record of the number of types and dispositions of grievances shall be collected and maintained by each institution for statistical purposes. Clinical Services shall maintain separate grievance records in the same format and containing the same information as that required of institutions. In addition, a record will be kept of individual grievance dispositions at each stage of procedure, in database format.
2. The facility grievance coordinator shall utilize the computerized database available on the DOCNET to input required information daily. Offender grievances shall be logged immediately upon receipt.
3. Facility grievance coordinators shall be responsible for entering data consistently. Offender last names only, capitalized, and spelled exactly as shown in DCIS.

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4. All grievances are to be assigned a tracking number beginning with Step 1. Each grievance will begin with institution code, fiscal year, and sequential number (e.g. AV04/05-001). The step shall be designated in the appropriate field in the database.
5. Clinical grievance tracking numbers will begin with "C-," then institution code, fiscal year, and sequential number (e.g. C-BV04/05-001). Copies of all steps shall be filed in the offender's dental, medical, or mental health chart as appropriate.
6. ADA grievance tracking numbers shall be assigned by the facility grievance coordinator and begin with "D," followed by the institution code, fiscal year, and sequential number (e.g. D-CT04/05-001). No one other than the offender is authorized to designate a grievance as "ADA." No one other than the facility grievance coordinator is authorized to log such grievances, and no one other than the AIC, the director of Prisons, or their designees are authorized to respond to such grievances.
7. All grievances are to be assigned a subject from the list provided in Attachment "B."
8. All grievances are to be assigned a tracking number at the facility where the offender submits the Step 1 grievance form, no matter where the event occurred. The grievance coordinator shall then forward the grievance to the grievance coordinator at the facility where the event occurred, so that it will be sent to the appropriate person for a response. Both grievance coordinators shall maintain a record of the grievance.
9. The grievance coordinators shall be responsible for tracking all grievances sent to other facilities for responses, as well as grievances sent to their facilities.
10. The Office of Correctional Legal Services shall maintain a list of the grievance coordinators. Each facility shall notify the Office of Correctional Legal Services, or the grievance officer, when a new grievance coordinator or data entry person is named.
11. The records will be maintained for three years as a criminal justice record.

V. RESPONSIBILITY

- A. The executive director is responsible for the overall implementation of this administrative regulation.
- B. Administrative heads are responsible for ensuring compliance with this administrative regulation at their institutions.
- C. The assistant director for Clinical Services is responsible for ensuring compliance in Clinical Services.
- D. The administrative head of the Denver Reception and Diagnostic Center is additionally responsible for ensuring offenders are provided with this regulation in appropriate format upon arrival, as stated in this regulation.
- E. The AIC is responsible for ensuring compliance with this regulation with respect to ADA grievances.

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VI. AUTHORITY

- A. Civil Rights of Institutionalized Persons Act, Public Law 96-247 94 Stat.349 (42 USC 1997).
- B. Montez Remedial Plan 8/27/03: Chapters XVIII-B-1; XII-1; XII-2; XII-3; XII1; XII2; XII3.
- C. Americans with Disabilities Act, 42 USC 12102

VII. HISTORY

October 1, 2004
June 15, 2004
August 1, 2003
August 1, 2002
December 1, 2001
December 1, 2000
October 1, 2000
October 1, 1999

- ATTACHMENTS:
- A. DC Form 850-04A, Colorado Department of Corrections Offender Grievance Form
 - B. AR Form 850-04B, Grievance Subject List
 - C. AR Form 850-04C, Request for Accommodation/Verification of Disability
 - D. AR Form 850-04D, Offender Consent for Disclosure of Confidential Information
 - E. AR Form 100-1A, Administrative Regulation Implementation/Adjustments

COLORADO DEPARTMENT OF CORRECTIONS OFFENDER GRIEVANCE FORM

Grievance Number _____

STEP (Circle One) 1 2 3

ADA? Yes No

NAME	DOC NO.	FACILITY
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- Instructions:
1. FILL OUT IDENTIFYING DATA LEGIBLY IN SPACE PROVIDED;
 2. CLEARLY STATE BASIS FOR GRIEVANCE OR GRIEVANCE APPEAL;
 3. STATE SPECIFICALLY WHAT REMEDY YOU ARE REQUESTING;
 4. ATTACH A COPY OF PRIOR STEP(S) AND RESPONSES IN GRIEVANCE PROCESS.

Subject of Grievance and Requested Remedy:

DATE:	OFFENDER SIGNATURE
DATE RECEIVED: RESPONSE	RESPONDING STAFF SIGNATURE & ID

If you are dissatisfied with the response to this grievance, you may obtain further review by submitting the next step to the appropriate individual.

DATE:	SIGNATURE/PRINT NAME & STAFF ID #
RECEIPT: I acknowledge receipt this date of a complaint from the above offender in regard to the following subject:	
DATE:	SIGNATURE/PRINT NAME & STAFF ID #
RECEIPT: I acknowledge receipt this date of a response from the Department of Corrections, to this grievance.	
DATE:	OFFENDER SIGNATURE/PRINT NAME & DOC #

Original: Department File/AIC

Copies: Working File, Administrative Head, Offender, Clinical Chart (clinical and ADA only)

Attachment "A"

GRIEVANCE SUBJECT LIST

SUBJECT	DESCRIPTION
ACCOUNT	includes money orders, deductions, reimbursements
CANTEEN	
CASE MANAGEMENT	
DENTAL	
DISABILITY	vision, hearing, diabetic, mobility, other, (specify from menu)
EARNED TIME	
FOOD SERVICE	
HOUSING CONDITIONS	includes cell conditions, maintenance, cell assignment
HYGIENE	
INDIGENCY	
JOBS	includes pay
LAUNDRY	
LEGAL ACCESS	
MAIL ROOM	
MEDICAL	
MENTAL HEALTH	
PRIVILEGES	includes hobby shop, telephone calls
PROGRAMS	
PROPERTY	
RECREATION	
RELIGION	includes religious diet issues
SAFETY	
SANITATION	
SEARCHES	
STAFF CONDUCT	includes abuse, harassment, indifference, retaliation
STAFF SEXUAL HARRASSMENT	
URINE ANALYSIS	
VISITATION	
OTHER	may include non-grievable issues like classification, disciplinary proceedings, no grounds, or unique issues

REQUEST FOR ACCOMMODATION
 (Return to AIC, 2862 S. Circle Drive, Colorado Springs, CO 80906)

I. OFFENDER INFORMATION: *(Please print)*

Offender Name:		DOC #:	
Current Facility:		Date:	

II. CLAIMED DISABILITY: *(Check all that apply)*

Vision	<input type="checkbox"/>	Hearing	<input type="checkbox"/>	Mobility	<input type="checkbox"/>	Diabetes	<input type="checkbox"/>	Other:	<input type="checkbox"/>
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III: ACCOMMODATION REQUESTED: *(Be specific and brief. You may attach one additional page if necessary to fully describe your condition and/or explain your requested accommodation.)*

Offender Signature

Offender: do not write below this line



VERIFICATION OF DISABILITY

(Please Print or Type)

Date of Evaluation:		Facility:	
Chief Medical Officer or Designee:			
Title (if designee)			

I SCREENED THE OFFENDER ON THE ABOVE DATE AND VERIFY HE/SHE HAS THE FOLLOWING DISABILITIES: *(Circle all that apply and attach disability-specific screening form)*

Vision	<input type="checkbox"/>	Hearing	<input type="checkbox"/>	Mobility	<input type="checkbox"/>	Diabetes	<input type="checkbox"/>	None	<input type="checkbox"/>
Other (Please be Specific):									

Signature of Screening Chief Medical Officer/Designee

Date

Original: AIC

COLORADO DEPARTMENT OF CORRECTIONS

OFFENDER CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

I, _____ DOC # _____ DOB _____,
authorize the Department of Corrections to release, request, review, and/or discuss my medical and/or mental health records for the purposes of investigating my claim of disability, evaluating my disability status for an accommodation under the Americans With Disabilities Act, and if necessary assisting DOC staff in understanding my disability with respect to my housing, program, and daily living needs.

I understand that the information disclosed and discussed will be done so only to the extent necessary and only on an as-needed basis; however, once disclosed it may be disseminated to any person or organization that may become involved in the determination and/or accommodation of my disability.

I understand that any relevant information may be disclosed, including but not limited to medical records, mental health records, HIV status, and drug and alcohol information.

I certify that my request for accommodation has been made voluntarily and that the information given above is accurate to the best of my knowledge. I understand that this authorization may be revoked at any time, except to the extent that action has already been taken to comply with my request, and that authorization to use any information that has already been released may not be revoked as long as I remain in the custody of the Colorado Department of Corrections.

I hereby release the Department of Corrections and any employee thereof, any contract personnel, and any authorized volunteer from any liability which may result from furnishing or using the information requested as authorized in this release. I have read the above and foregoing **OFFENDER CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION** and do hereby acknowledge that I am familiar with and fully understand the terms and conditions of this consent.

Offender Signature

Date

Witness (REQUIRED)

Date

Original: AIC

ADMINISTRATIVE REGULATION
IMPLEMENTATION/ADJUSTMENTS

AR FORM 100-1A (11/15/05)

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(FACILITY/WORK UNIT NAME) _____
WILL ACCEPT AND IMPLEMENT THE PROVISIONS OF THE ABOVE ADMINISTRATIVE REGULATION:

AS WRITTEN NOT APPLICABLE WITH THE FOLLOWING ADJUSTMENTS TO MEET
LOCALIZED OPERATIONS/CONDITIONS

(SIGNED) _____ (DATE) _____
Administrative Head