

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Functional Area: Facilities Division	Reference Number: IIB05-0001	Revises Previous Effective Date: 6/01/03
Subject: Statewide Grievance Procedure		
Authority: Owens / <u>Tillman</u>	Effective Date: <u>12/10/2012</u>	Page 1 of <u>15</u>

I. POLICY:

It is the policy of the Georgia Department of Corrections to maintain a grievance procedure available to all offenders, which provides an open and meaningful forum for their complaints, the resolution of these complaints, and is subject to clear guidelines.

II. APPLICABILITY:

All offenders committed to the Department of Corrections in state prisons, private prisons, county correctional institutions, and transitional centers.

III. RELATED DIRECTIVES:

- A. GDC Rules: 125-2-4-.23
- B. GDC SOP's:
 - 1. IIA21-0001 (Prison Rape Elimination Act (PREA)-Sexual Assault of/Sexual Misconduct with Offenders)
 - 2. IIB02-0001 (Inmate Discipline)
 - 3. SOP IIB09-0001 (Administrative Segregation)
 - 4. VH03-0003 (Inmate/ Probationer Health Concerns or Complaints)
- C. ACA Standard 3-4271

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IV. DEFINITIONS:

A. Emergency Grievance: An unexpected situation involving a significant threat to the health, safety or welfare of an offender that requires prompt action.

B. Calendar day: Calendar Day is considered a 24 hour time period from midnight to midnight Monday through Sunday.

C. Good cause: A legitimate reason involving unusual circumstances that prevented the offender from timely filing a grievance or an appeal. Examples include: serious illness, being housed away from a facility covered by this procedure (such as being out on a court production order or for medical treatment).

D. Offender: Any person confined in any state prison, private prison, county correctional institution and transitional center.

E. Warden: Includes the Superintendent of a Transitional Center

F. Grievance Coordinator: The individual assigned by the warden or superintendent to manage the grievance process at the local facility and serve as the primary point-of-contact.

G. Alternate Grievance Coordinator: The individual assigned by the warden or superintendent to back-up and/or assist the Grievance Coordinator manage the grievance process at the local facility as the secondary point-of-contact.

H. Active Grievance: A grievance that is currently being worked at the local facility level and has not been resolved or appealed to the Commissioner's level.

I. Physical Force Compliance: Allegation of staff use of force that is in alignment with the letter of, the intent of, and the purpose of GDC written policy and procedures.

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J. Physical Force Non-Compliance: Allegation of staff use of force that is NOT in alignment with the letter of, the intent of and the purpose of GDC written policy and procedures.

K. Sexual Assault: sexual contact or attempted sexual contact between a staff member and an offender, and nonconsensual sexual contact or attempted sexual contact between offenders.

L. Sexual Harassment: Any behavior by staff related to a sexual act with an offender, except sexual assault.

V. ATTACHMENTS:

Attachment 1 - Offender Grievance Form (Includes section for Warden's/Superintendent's Grievance Response; Grievance Resolution Letter)

Attachment 2 - Staff Local Investigative Form

Attachment 3 - Witness Statement Form

Attachment 4 - Warden's Response Form

Attachment 5 - Grievance Appeal to Central Office Form

Attachment 6 - Notification of Warden's/Superintendent's Referral to Internal Investigations of allegations of physical force non-compliance and allegations of sexual assault or sexual misconduct

Attachment 7 - Grievance Rejection Code Form

Attachment 8 - Grievance Resolution/Drop Form

Attachment 9 - Central Office Appeal Response Form

VI. PROCEDURE:

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A. General Information:

1. **Notice to Offenders.** Upon entering the Department of Corrections, each offender must receive an oral explanation of the grievance procedure. The offender must also receive a copy of the Orientation Handbook for Offenders, which includes instructions about the procedure. The offender's receipt of an oral explanation of the grievance procedure and Orientation Handbook will be noted in the inmate's institutional file. Additionally, offenders may access a copy of this policy in its entirety at the facility library.

2. No inmate may be denied access to this procedure.

- a. Grievance Forms must be available in the control rooms of all living units and must be provided upon request by an offender. For offenders in isolation and segregation areas, staff assigned to those areas must provide these Forms upon request by an offender.
- b. Offenders are not prohibited from assisting other offenders from filling out any forms attached to this SOP. However, one offender may not file a grievance on behalf of another offender.
- c. Institutional staff will assist offenders who need special help filling out the grievance forms (*i.e.*, due to language barriers, illiteracy, or physical or mental disability) upon request.

3. Retaliation against an offender for filing a grievance is strictly prohibited. The prohibited retaliation includes, but is not limited to, disciplinary action against the offender for filing a grievance.

4. **Informal Dispute Resolution.** The Department encourages offenders to try to resolve complaints on an informal basis before filing a grievance. However, an offender is not required to attempt an informal resolution before filing a grievance.

5. The grievance procedure is not intended to circumvent routine administrative processes (*i.e.*, clothing requests, sick call, etc.).

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B. Grievances:

1. Grievable Issues. Except as provided below, an offender may file a grievance about any condition, policy, procedure, or action or lack thereof that affects the offender personally.

2. Non-grievable Issues. An offender may not file a grievance about any of the following issues:

- a. Matters that do not affect the offender personally.
- b. Matters over which the Department has no control, including parole decisions, sentences, probation revocations, court decisions, and any matters established by the laws of the state.
- c. Disciplinary actions, including any punishment, fees, or assessments. The disciplinary appeal procedure is located in GDC SOP IIB02-0001 (Inmate Discipline).
- d. Involuntary assignments to administrative segregation. The procedure to appeal such assignment is located in GDC SOP IIB09-0001 (Administrative Segregation).
- e. Co-pay charges assessed for health care. The procedure to appeal such charges is located in GDC SOP VH03-0003 (Inmate/ Probationer Health Concerns or Complaints).
- f. Transfers of offenders between institutions.
- g. Changes to housing assignments, program assignments, or work assignments, unless there is an alleged threat to the offender's health or safety.

3. Notwithstanding the above, an offender may file a grievance alleging retaliation or harassment, regardless of the form of the alleged retaliation or harassment.

4. Sexual Assault/Sexual Harassment:

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a. The Procedure to appeal such charges is located in GDC SOP IIA21-0001 (Prison Rape Elimination Act (PREA)-Sexual Assault of/Sexual Harassment of Offenders)

5. Limit on Number of Active Grievances:

a. An offender is limited to two active grievances.

- 1) In order for an offender to file a new grievance (more than two active grievances), the offender must drop one of the outstanding active grievances being processed. If the offender does not desire to drop one of the two active grievances then the third grievance will be rejected.

b. The following do not count toward the two (2) active grievance limit and will be processed under the regular procedure:

- 1) A grievance submitted by the offender as an emergency grievance, and determined by the Grievance Coordinator to be an emergency grievance;
- 2) A grievance that involves allegations of physical abuse with significant injury to the inmate or sexual assault (See: subsection 9.b); and
- 3) A grievance that the Grievance Coordinator determines involves an important issue of prison security or administration, such as a serious threat to life, health, or safety of any person.

6. Other Limits on Grievances and Appeals. When an offender includes threats, profanity, insults, or racial slurs that are not a part of the offender's complaint it will be rejected.

7. Range of Remedies. Allowed remedies include all reasonable and effective resolutions, which may range from corrective action by the Warden up to statewide policy changes by the Commissioner. Monetary awards are not allowed.

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C. The Grievance procedure has 2 Steps:

1. Step 1: Original Grievance
2. Step 2: Central Office Appeal

D. Step 1: Original Grievance

1. The offender's complaint and requested relief must be stated legibly and in writing in the space provided on the Grievance Form and on one additional page attached to the Grievance Form. The offender may write on only one side of a page. Any extra pages and any writing on the back side of a page will not be considered.

2. The complaint on the Grievance Form must be a single issue/incident.

3. The offender must sign the Grievance Form and give it to any Counselor. The offender may accomplish this by hand delivery. The recipient must give the offender the receipt, which is the bottom portion of Attachment #1. The Counselor must forward the Grievance Form to the Grievance Coordinator.

4. The offender must submit the Grievance Form no later than 10 calendar days from the date the offender knew, or should have known, of the facts giving rise to the grievance.

5. Screening.

a. The Grievance Coordinator will screen it in order to determine whether to accept it or to recommend that the Warden reject it. The Grievance Coordinator may recommend that the Warden reject the grievance only if it falls into one of the categories listed in subsection b, immediately below.

b. The Warden should reject the grievance if it:

- 1) Raises a non-grievable issue.
- 2) Is not filed timely. The Grievance Coordinator may waive the time limit for good cause.

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- 3) Includes threats, profanity, insults, or racial slurs that are not a part of the offender's complaint.
 - 4) The offender already has two active grievances
- c. If the Grievance Coordinator determines that the Warden should reject the grievance, the Grievance Coordinator must make that recommendation to the Warden for the Warden's review and decision.
 - d. If the Warden rejects the grievance, the Warden will send the rejection decision to Grievance Coordinator, who will send it to the offender's Counselor. The Counselor must then give a copy of that decision to the offender and have the offender sign an acknowledgement of receipt.
 - e. However, even if the Warden rejects the grievance, staff must still act on the information contained in the Grievance Form in accordance with good prison management, if that information concerns the health or safety of any person.
 - f. The offender may appeal the Warden's rejection decision to Central Office.
 - g. If the Warden rejects the Grievance Coordinator's recommendation and accepts the grievance, the Warden will send it to the Grievance Coordinator for the grievance to be processed.
6. Processing.
- a. Once the Grievance Coordinator accepts the grievance or once the Warden rejects the Grievance Coordinator's recommendation to reject the grievance, then the grievance will be processed.
 - b. The Grievance Coordinator will appoint an appropriate staff member to investigate the offender's complaint. The staff member will thoroughly investigate the complaint in a manner

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that is appropriate in the situation. This may include interviewing the offender, interviewing witnesses, taking statements, and obtaining documents.

- c. Upon completing the investigation, the staff member must write a complete report, attaching all relevant documentation, and submit it to the Grievance Coordinator. (Refer to Attachment #2) The report must contain:
- 1) a summary of the facts surrounding offender's complaint;
 - 2) the staff member's conclusions; and
 - 3) a recommendation for resolution.
- d. The Grievance Coordinator will then review the staff report and indicates either concurrence or disagreement. The Grievance Coordinator will then submit a recommended response to the Warden.
- e. The Warden or Designee will then review the Original Grievance, the staff report, and the recommendation and will then issue a decision. The decision must be in writing and must state the reasons for the decision.
- f. The Warden or Designee will send the Grievance decision to Grievance Coordinator, who will send it to the offender's Counselor. The Counselor must then give decision to the offender and have the offender sign an acknowledgement of receipt.
- g. The Grievance Coordinator will retain a copy of the Original Grievance and the staff report (including any attachments to the staff report).
- h. The offender may appeal the Warden's decision to Central Office.

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7. The Warden has 40 calendar days from the date the offender gave the Grievance Form to the Counselor to deliver the decision to the offender. A onetime 10 Calendar day extension may be granted; however, the offender must be advised, in writing, of the extension prior to the expiration of the original 40 calendar days.

8. Referral to Internal Investigations.

- a. At any time before the Warden's Grievance decision is delivered to the offender, the Warden may refer the matter to the Internal Investigations Unit.

If an offender files a grievance involving sexual assault or physical force involving non-compliance with Department policies; such actions automatically end the grievance process. These grievances are automatically forwarded through the Scribe application to Internal Investigation Unit and/or the PREA Coordinator for review and whatever action is deemed appropriate.

- b. Once a grievance is referred to Internal Investigations Unit and/or the PREA Coordinator, then this is the final action that will be taken on the Grievance and terminates the grievance procedure.
- c. Notice that the grievance was forwarded to Internal Investigations Unit and/or the PREA Coordinator will be generated through the Scribe grievance application. That letter must be handed to the offender and the offender must sign a copy, which will then be placed in the local file. The offender will be provided with a copy of this signed letter.
- d. The offender may not file a Central Office Appeal from the Warden's decision to refer the matter to Internal Investigations.

E. Step 2: Central Office Appeal

1. The offender may file a Central Office Appeal only after:

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- a. the offender receives the Grievance Coordinator's rejection of the Original Grievance
- b. the offender receives the Warden's decision on the Original Grievance; or
- c. the time allowed for the Warden's decision to be given to the offender has expired.

2. The offender has 7 calendar days from the date he/she receives the response to the Original Grievance (including a rejection as untimely) to file a Central Office Appeal. The Grievance Coordinator or Central Office staff may waive this time limit for good cause.

3. If the offender's Original Grievance was rejected, the offender may file a Central Office Appeal. If the Commissioner or the Commissioner's designee determines that the Original Grievance should have been accepted, the Central Office Appeal decision must also address the merits of the offender's Original Grievance.

4. If the time allowed for the original grievance response to be given to the offender has expired and the offender has not received the original grievance response, the offender may file a Central Office Appeal on his/her Grievance. In the alternative, the offender may wait until he/she receives the original grievance decision to file a Central Office Appeal. However, the offender may file only one Central Office Appeal on or for a Grievance.

5. The offender must fill out and sign the Central Office Appeal Form (refer to Attachment #5) and give it to his/her Counselor. The Counselor must sign and date the Central Office Appeal Form and give a copy of the completed Form to the offender as a receipt.

6. The Grievance Coordinator must send the Original Grievance, the Warden's decision, the Central Office Appeal Form, and any supporting documentation to Central Office. However, the Grievance Coordinator does not have to send paper copies of any documents if those documents are available electronically unless the Commissioner's designee specifically requests those documents.

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7. The Commissioner or his/her designee has 100 calendar days after receipt of the Grievance Appeal by the Counselor to deliver a decision to the offender.

8. The Commissioner's designee will send the Central Office Appeal decision to the facility Grievance Coordinator. The Grievance Coordinator will promptly give it to a designated staff member for delivery to the offender. That staff member must then promptly give the Central Office Appeal decision to the offender and have the offender sign a receipt.

F. Emergency Grievances Procedure:

1. Emergency grievances must be immediately referred to the Grievance Coordinator (or Duty Officer if after hours).

2. The Grievance Coordinator/Duty Officer must determine if the Grievance fits the definition of an Emergency Grievance. If it does, the Grievance Coordinator/Duty Officer must immediately take whatever action necessary to protect the health, safety, or welfare of the offender. This information will be documented and the offender must be given a written response to his Emergency Grievance within 5 calendar days.

3. If the Grievance Coordinator/Duty Officer determines that the Grievance does not fit the definition of an Emergency Grievance, it will be returned to the offender. The offender has 7 calendar days from receipt to file it as an Original Grievance.

G. Administration and Record-keeping for the Grievance Procedure:

1. The Commissioner may delegate his/her authority over grievance matters to a designee.

2. Confidentiality of Grievances:

a. All paper copies of grievances and related documents retained at the institution must be kept in a local working file within the

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office of the Grievance Coordinator in a locked cabinet. Paper copies of grievance documents retained by Central Office staff must be kept in a separate file. Electronic grievance documents must have similar restricted access. If there is a scanning process available to the Grievance Coordinator at the local level and/or Commissioner's Designee at the Central Office level Grievance Coordinator, once the a decision is made, the local working file may be scanned into a PDF file. This file will be assigned a unique file name following the statewide guidelines and stored in a secured folder, limited access folder on the network.

- b. A Grievance must not be placed in the offender's file or referred to in SCRIBE case notes.
- c. Grievances may be made available to staff members involved only to the extent necessary for processing the Grievance or for an audit.

3. Grievance Coordinator. The Warden of each facility must appoint a Grievance Coordinator. An Alternate Grievance Coordinator should be named to serve as a back-up to the Grievance Coordinator. Facilities Operations will maintain a list of all Grievance Coordinators and will provide a copy to Inmate Affairs.

4. Grievance Coordinator Duties:

- a. Ensure compliance with the Grievance SOP;
- b. Maintain the SCRIBE records on grievances;
- c. Retain all records and documentation relevant to grievances as provided by this policy;
- d. Coordinate the timely investigation of grievances.

5. Where a Grievance is filed in reference to a different facility, the Grievance Coordinator at the offender's current facility will retain a copy of

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the Grievance and will forward the Original Grievance to the Grievance Coordinator at the named facility for processing.

6. Electronic Records. Grievances and related documents may be created and stored electronically (such as if they are scanned into SCRIBE). An electronic record may be used in the same manner as a paper record.

7. A copy of the Central Office Appeal decision and the offender's signed acknowledgement will be kept in the grievance file. All attachments, statements and related documents will be retained in the Central Office file. If these records are stored electronically, the paper copies do not need to be retained.

8. Employee Training. Department employees who process grievances (such as Counselors and Grievance Coordinators) and who are employed at any facilities covered by this SOP will be required to attend training and read the grievance procedure. The training officer will document this annually.

9. Deadlines and time calculation. If the final day of a deadline falls on a day that is not a Calendar day, then the deadline expires on the next calendar day.

H. Evaluation of the Grievance Procedure:

1. The Office of Investigations and Compliance (OIC) Audits Unit must audit the grievance process at least once every 12 months.

2. OIC must conduct an evaluation of the grievance procedure at least once every 12 months.

3. The Operations, Planning, and Training (OPT) Division Planning & Analysis Unit will generate semi-annual reports regarding the number and type of grievances filed and will present those reports to the Commissioner, the Director of Facilities Operations, and the General Counsel of the Department.

VII. RETENTION SCHEDULE:

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All Grievance related documents will be retained in the Grievance Coordinator's and/or the Commissioner's designee's file for 4 years after the final disposition of the grievance and then destroyed.

STAFF LOCAL INVESTIGATIVE REPORT AND RECOMMENDATION FORM

INSTITUTION: _____ DATE: _____

TO GRIEVANCE COORDINATOR: _____

FROM COUNSELOR: _____

OFFENDER NAME: _____

STATE I.D.#: _____

INMATE'S BASIC ALLEGATION OR COMPLAINT: _____

SUMMARY OF FINDINGS/RECOMMENDATIONS: _____

COUNSELOR'S/DEPARTMENT HEAD SIGNATURE

I do / do not concur with Counselor. _____

GRIEVANCE COORDINATOR

(Reproduced locally)

RETENTION SCHEDULE: Upon completion of this form, it will be placed in a file in the Grievance Coordinator's office.

STATEMENT (Continued)

AFFIDAVIT

I, _____ HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE _____. I FULLY UNDERSTAND THE CONDITIONS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESS

INSTITUTION OR ADDRESS

INSTITUTION OR ADDRESS

(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this ____ day of _____, 20__ at _____

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oath)

INITIALS OF PERSON MAKING STATEMENT

PAGE OF PAGES

RETENTION SCHEDULE:

Upon completion, if this form, it will be placed in a file in the Grievance Coordinator's office.

WARDEN'S/SUPERINTENDENT'S GRIEVANCE RESPONSE

Offender's Name: _____ Grievance Number: _____

GDC#: _____ Facility: _____

RESPONSE TO GRIEVANCE: _____

Warden/Superintendent

(date)

I ACKNOWLEDGE RECEIPT OF THE ABOVE RESPONSE ON THIS DATE:

Offender's signature

(date)

You have seven (7) calendar days within which to appeal this Response to your grievance. If the last day is not a business day at your institution, you may file it on the next day that is a business day.



Nathan Deal
Governor

GEORGIA DEPARTMENT OF CORRECTIONS

COMMISSIONER'S OFFICE
State Office South at Tift College



Brian Owens
Commissioner

DATE:

TO: Offender Name, GDC #
_____ STATE PRISON

FROM: Warden/Superintendent
_____ STATE PRISON

RE: FORMAL, # , Date

This memorandum is in response to your grievance that was filed on _____. Upon review, it has been determined that due to the nature of the allegation, a request for a formal investigation is warranted.

Therefore, your grievance has been forwarded to the Georgia Department of Corrections Internal Investigations Unit on _____ for review. That Unit will determine what action is appropriate. As a result, this letter serves as the formal response to your grievance and effectively closes your grievance. The decision to forward your grievance to the Internal Investigation Unit and close your grievance is not appealable.

Offender Name, GDC #

Warden/Superintendent

Codes for Rejected Grievance (Formal)

1. More than one issue per grievance
2. Grievance filed out of time frames as outlined in policy
3. Non-grievable issue:
 - a. Does not affect the offender personally
 - b. Parole Decision
 - c. Issue outside the Department's control
 - d. Disciplinary Report
 - e. Disciplinary Hearing Procedure, punishment, fees, or assessments.
 - f. Transfer of offender between Institution
 - g. Routing Housing Assignment
 - h. Involuntary Assignment to Administrative Segregation
 - i. Co-Pay Charge for Health Care

 - j. Changes to housing assignments, program assignments, or work assignments, unless there is an alleged threat to the offender's health or safety.
4. Grievance includes threats, profanity or racial slurs
5. Exceeded Grievance Filing Limit
6. Formal Grievance Form not Attached



Nathan Deal
Governor



Brian Owens
Commissioner

**GEORGIA DEPARTMENT OF CORRECTIONS
FACILITY OPERATIONS
State Offices South Tift Campus
Gibson Hall – 1st Floor
Forsyth, Georgia 31029
(478) 992-5101 – Fax (478) 992-5210**

Memorandum

Date: _____

To: Warden/Superintendent _____

From: Grievance Coordinator

Re: Grievance Resolution/Drop Form

The attached-formal grievance from Offender _____, I.D. # _____, was received in my office. The following action(s) has been taken:

Grievance Resolved and no further action is needed

Grievance Dropped by offender

Matter discussed:

The above was discussed with me and the problem is being resolved/I wish to drop this grievance.

Offender Signature / Date

Staff Signature / Date

CENTRAL OFFICE APPEAL RESPONSE

Offender's Name: _____

Grievance Number: _____

GDC#: _____

Facility: _____

RESPONSE TO APPEAL: _____

Commissioner's designee

(date)

I ACKNOWLEDGE RECEIPT OF THE ABOVE RESPONSE ON THIS DATE:

Offender's signature

(date)