



**MISSISSIPPI DEPARTMENT
OF
CORRECTIONS**

**SOP NUMBER
20-08-01**

AGENCYWIDE

GRIEVANCE PROCEDURES

**INITIAL DATE
12-15-1997**

ACA STANDARDS: 2-CO-3C-01, 4-4248, 4-4284, 4-ACRS-6B-03

**EFFECTIVE DATE
08-01-2012**

STATUTES: 47-7-9, 47-7-27, 47-7-37

NON-RESTRICTED

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APPLICABILITY:

This procedure applies to all employees of the Mississippi Department of Corrections and to all offenders committed to the custody of the Mississippi Department of Corrections.

POLICY STATEMENT:

It is the policy of the Mississippi Department of Corrections (MDOC) to maintain a written offender grievance procedure.

DEFINITIONS:

Administrative Remedy Program (ARP) – A program by which an offender may request administrative remedy for situations arising from policies, conditions, or events within the MDOC that affect them personally.

Administrative Remedy Program Administrator – Supervisor of MDOC's Administrative Remedy Program in Central Mississippi Correctional Facility, Mississippi State Penitentiary, South Mississippi Correctional Institution, Restitution Centers, Community Work Centers, and any other facility housing offenders committed to the custody of the Mississippi Department of Corrections who coordinates the program at all administrative levels.

Legal Claims Adjudicator – A staff member whose responsibility is to coordinate and facilitate the Administrative Remedy Procedure process.

Grievance – A written complaint by an offender on the offender's own behalf regarding a policy applicable within an institution, a condition within an institution, an action involving an offender of an institution, or an incident occurring within an institution.

Emergency Grievance – A matter in which disposition within the regular time limits would subject the offender to a substantial risk of personal injury, or cause other serious and irreparable harm to the offender.

Days – Calendar days.

PROCEDURES:

GENERAL

Administration of Correctional Agencies (Central Office): **Written agency policies provide offenders/juveniles/residents with the following:**

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- 43 • access to courts
- 44 • access to counsel
- 45 • access to law library
- 46 • access to programs and services
- 47 • access to media
- 48 • procedures that reasonably ensure the safety and well-being of offenders
- 49 • procedures for searches
- 50 • procedures for disciplinary actions
- 51 • grievance procedures
- 52 • freedom from racial, ethnic, gender, and religious discrimination [2-CO-3C-01]

53
54 *Adult Correctional Institutions:* There is a written inmate grievance procedure that is made
55 available to all inmates and that includes at least one level of appeal [4-4284].
56

57 *Adult Community Residential Services:* A grievance procedure that includes at least one
58 level of appeal is available to all offenders. The grievance procedure is evaluated at least
59 annually to determine its efficiency and effectiveness. The quantity and nature of
60 offender grievances are aggregated and analyzed annually [4-ACRS-6B-03].
61

62 The Legal Claims Administrator will annually solicit comments and suggestions on the
63 processing, the efficiency and the credibility of the Administrative Remedy Procedure.
64

65 All offenders will be entitled to invoke this grievance procedure. It will be the
66 responsibility of the Case Manager to provide appropriate assistance for offenders with
67 literacy deficiencies or language barriers. No action will be taken against an offender for
68 the good faith use of or good faith participation in the procedure. Reprisals of any nature
69 are prohibited. Offenders are entitled to pursue, through the grievance procedure, a complaint
70 that a reprisal occurred.
71

72 All aspects of the ARP process will be monitored by the ARP Administrator to insure that all
73 time-limits are followed and that appropriate relief and responses are prepared at each
74 level.
75

76 **REVIEWERS:** If an offender registers a complaint against a staff member, that employee
77 will not play a part in making a decision on the request. However, this will not prevent the
78 employee from participating at Step One, since the employee complained about may be the
79 best source from which to begin collecting information on an alleged incident. If the
80 offender is not satisfied with the decision rendered at the First Step, he should pursue his
81 grievance to the Legal Claims Adjudicator via the Second Step.
82

83 **COMMUNICATIONS:** Offenders must be made aware of the system by oral explanation at
84 orientation and should have the opportunity to ask questions and receive oral answers. The
85 procedures will be posted in writing in areas readily accessible to all offenders.
86

87 **WRITTEN RESPONSES:** At each stage of decision and review, offenders will be provided
88 legibly written or typed answers that explain the information gathered or the reason for the
89 decision reached along with simple directions for obtaining further review.

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90 **INITIATION OF THE PROCESS**

91
92 Before initiating the formal process, offenders should always try to resolve their problems
93 informally within the institution. This informal resolution may be accomplished through
94 discussions with staff members, etc. If the offender is unable to resolve his problems or
95 obtain relief, he may initiate the formal process.

96
97 Nothing in this procedure should serve to prevent or discourage an offender from
98 communicating with anyone in MDOC. The requirements set forth in this document for
99 acceptance into the Administrative Remedy Procedure are solely to assure that incidents which
100 may give rise to a cause of action will be handled through this two step system of review.

101
102 If an offender refuses to cooperate with the inquiry into his allegation, the request may be
103 denied by noting the lack of cooperation on the appropriate Step Response and returning it to
104 the offender.

105
106 **SCREENING**

107
108 The Legal Claims Adjudicator will screen all requests prior to assignment to the First Step.
109 The screening process should not unreasonably restrain the offender's opportunity to
110 seek a remedy. If a request is rejected, it must be for one of the following reasons which will be
111 noted on Form ARP-1:

112
113 This matter is not appealable through this process such as:

- 114
- 115 • Court decisions
 - 116
 - 117 • Parole Board/Pardon Board decisions
 - 118
 - 119 • It is a duplicate request.
 - 120
 - 121 • In cases where a number of offenders have filed similar or identical requests seeking
122 administrative remedy, it is appropriate to respond only to the offender who filed the initial
123 request. Copies of the decision sent to other offenders who filed requests simultaneously
124 regarding the same issue will constitute a completed action. All such requests will be
125 logged.
 - 126
 - 127 • The complaint concerns an action not yet taken or a decision which has not yet been made.
 - 128
 - 129 • The offender has requested a remedy for another offender.
 - 130
 - 131 • The offender has requested a remedy for more than one incident (a multiple
132 complaint).
 - 133
 - 134 • Established rules and procedures were not followed.
 - 135
 - 136 • If an offender refuses to cooperate with the inquiry into his allegation, the request may be
137 denied due to lack of cooperation.

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- 138 • There has been a time lapse of more than 30 days between the event and the initial request,
139 unless waived by the Legal Claims Adjudicator.
140

141 Notice of the initial acceptance or rejection of the request will be provided to the offender.
142

143 **MULTIPLE REQUESTS:** Except for disciplinary appeals, if an offender submits multiple
144 requests during the review of a previous request, they will be logged and set aside for
145 handling at such time as the request currently in the system has been exhausted at the
146 Second Step or until time limits to proceed from the First Step to the Second Step have
147 lapsed. RVR appeals will not be logged and set aside. A maximum of ten (10) requests will
148 be logged. Requests above that number will be returned to the offender and not filed.
149

150 **REPRISALS:** No action will be taken against anyone for the good faith use of or good faith
151 participation in the procedure. The prohibition against reprisals should not be construed to
152 prohibit discipline of offenders who do not use the system in good faith. Those who file
153 requests that are frivolous or deliberately malicious may be disciplined under the
154 appropriate rule violation.
155

156 The ARP Administrator will be responsible for determining and communicating to offenders who
157 misuse the ARP. The offenders will be notified about their non-compliance with the rules and
158 the consequences of frivolous or malicious filings.
159

160 **FIRST STEP (Time Limit 40 days)**
161

162 The offender commences the process by writing a letter to the Legal Claims Adjudicator, in
163 which he/she briefly sets out the basis for his/her claim, and the relief sought (Refer to Initiation
164 of Process" for the requirements of the letter.)
165

166 The offender should make a copy of his letter of complaint and retain it for his own records.
167 The original letter will become a part of the process and will not be returned to the offender.
168 The institution is not responsible for providing the offender with copies of his letter of
169 complaint.
170

171 This letter will be written to the Legal Claims Adjudicator within 30 days of an alleged event
172 (This requirement may be waived when circumstances warrant. The Legal Claims Adjudicator or
173 his designee will use reasonable judgment in such matters).
174

175 The requests will be screened by the Legal Claims Adjudicator and a notice will be sent to the
176 offender advising that his request is being processed or is being rejected. The First Step
177 Respondent will respond to the offender within 40 days from the date the request is received at
178 the First Step.
179

180 For offenders wishing to continue to the Second Step, sufficient space will be allowed on the
181 response to give a reason for requesting review at the next level. There is no need to
182 rewrite the original letter of request as it will be available to all reviewers at each Step of the
183 process.

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184 **SECOND STEP (Time limit 45 days)**

185
186 An offender who is dissatisfied with the First Step response may appeal to the Legal
187 Claims Adjudicator by so indicating that he is not satisfied in the appropriate space on
188 the response form and forwarding it to the Legal Claims Adjudicator within 5 days of receipt
189 of the decision. A final decision will be made by the Superintendent, Warden or Community
190 Corrections Director and the offender will be notified within 45 days of receipt.

191
192 If an offender is not satisfied with the Second Step response, he may file suit in State or
193 Federal Court. The offender must provide the administrative remedy procedure number on the
194 court forms.

195
196 **DEADLINES AND TIME LIMITS**

197
198 No more than 90 days from the initiation to completion of the process will elapse, unless
199 extension(s) have been granted. Absent such an extension, expiration of response time
200 limits will entitle the offender to move on to the next Step in the process. Time limits begin on
201 the date the request is assigned to a staff member for the First Step response.

202
203 An offender may request an extension in writing of up to five days in which to file at any stage of
204 the process. This request will be made to the Legal Claims Adjudicator. The offender must
205 certify valid reasons for the delay, which reasons must accompany his untimely request.
206 The issue of sufficiency of valid reasons for delay will be addressed at each Step, along with the
207 substantive issue of the complaint.

208
209 The First Step Respondent may request permission for an extension of not more than five days
210 from the Legal Claims Adjudicator at Step One review/response. The offender must be notified
211 in writing of such an extension.

212
213 In no case may the cumulative extensions exceed 25 days.

214
215 The ARP Administrator will devote particular personal attention to all grievances of a sensitive
216 or emergency matter to insure that these matters are handled expeditiously and appropriately.

217
218 **PROBLEMS OF AN EMERGENCY NATURE**

219
220 If an offender feels he is subjected to emergency conditions, he must send an
221 emergency request to the Legal Claims Adjudicator. The Legal Claims Adjudicator will
222 immediately review the request and forward the request to the level at which corrective action
223 can be taken.

224
225 Abuse of the emergency review process by an offender will be treated as a frivolous or
226 malicious request and the offender will be disciplined accordingly. Particularly, but not
227 exclusively, matters relating to administrative transfers, time computation disputes and
228 family illness or death are NOT to be treated as emergencies for purposes of this
229 procedure, but will be expeditiously handled by the Legal Claims Adjudicator, when
230 appropriate.

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231 **SENSITIVE ISSUES**

232
233 If the offender believes the complaint is sensitive and would be adversely affected if
234 the complaint became known at the institution, he may file the complaint directly with the
235 Deputy Commissioner. The offender must explain, in writing his reason for not filing the
236 complaint at the institution.

237
238 If the Deputy Commissioner agrees that the complaint is sensitive, he will accept and
239 respond to the complaint. If he does not agree that the complaint is sensitive, he will so
240 advise the offender in writing, and return the complaint to the Legal Claims Adjudicator office.
241 The offender will then have five days from the date the rejection memo is received to submit his
242 request through regular channels (beginning with the First Step if his complaint is
243 acceptable for processing in the Administrative Remedy Program.

244
245 **MEDICAL**

246
247 Medical complaints will be handled at the First Step by a licensed primary care physician and
248 at the Second Step by the site medical director who is a licensed and supervisory doctor.

249
250 **SENTENCE COMPUTATION**

251
252 Sentence computation and records issues involving the calculation of the length of time
253 an offender must serve will be handled at the First Step by a knowledgeable Records office
254 employee and at the Second Step through a personal meeting with a records office supervisor.

255
256 **ADMINISTRATIVE REMEDY PROCEDURE RECORDS**

257
258 Administrative Remedy Procedure records are confidential. Employees who are participating
259 in the disposition of a request may have access to records essential to the resolution of
260 requests.

261
262 All reports, investigations, etc., other than the offender's original letter and responses, are
263 prepared in anticipation of litigation, and are prepared to become part of the attorney's work
264 product for the attorney handling the anticipated eventual litigation of this matter and are
265 therefore confidential and not subject to discovery.

266
267 Records will be maintained as follows:

- 268
- 269 • A log will be maintained which will document the nature of each request, all relevant dates,
270 and disposition at each step.
 - 271
 - 272 • Individual requests and dispositions, and all responses and pertinent documents will be
273 kept on file at the institution.
 - 274
 - 275 • Records will be kept at least five years following final disposition of the request.

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276 **TRANSFERRED OFFENDERS**

277
278 When an offender has filed a request at one institution and is transferred prior to the review, or if
279 he files a request after transfer on an action taken by the sending institution, the sending
280 institution will complete the processing through the First Step. The Warden of the receiving
281 institution will assist in communication with the offender.

282
283 **DISCHARGED OFFENDERS**

284
285 If an offender is discharged before the review of an issue that affects the offender after
286 discharge is completed, or if he files a request after discharge on such an issue, the
287 institution will complete the processing and will notify the offender at his last known
288 address. All other requests will be considered moot when the offender discharges, and
289 MDOC will not complete the process.

290
291 **RVR APPEALS**

292
293 *Adult Correctional Institutions:* **Written policy, procedure, and practice grant inmates the**
294 **right to appeal decisions of the disciplinary committee to the warden/superintendent or**
295 **designee. Inmates have up to 15 days of receipt of the decision to submit an appeal.**
296 **The appeal is decided within 30 days of its receipt, and the inmate is promptly notified in**
297 **writing of the results [4-4248].**

298
299 At the time of notification of a guilty finding in a disciplinary hearing, the inmate will be notified
300 that he/she has the right to appeal any decision of, or disciplinary action taken by the
301 Disciplinary Hearing Officer, directly to the Warden/Community Corrections Director or designee
302 of the unit/center involved via the Legal Claims Adjudicator.

303
304 This notification will be documented by having the inmate sign the front of the RVR indicating
305 that he/she understands the right to appeal.

306
307 If the inmate waives his/her right to appear and is found guilty, he/she cannot appeal the
308 decision.

309
310 The appeal will be submitted in writing within fifteen (15) days after a copy of the Disciplinary
311 Hearing Officer's decision is offered to the inmate and will set forth in detail the grounds for any
312 appeal.

313
314 In the event the inmate is illiterate, at the request of the inmate, the inmate's case manager may
315 assist him/her in writing the letter of appeal.

316
317 The Warden/Community Corrections Director or designee has thirty (30) calendar days from
318 receipt of the appeal to respond.

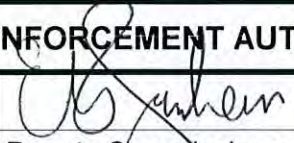
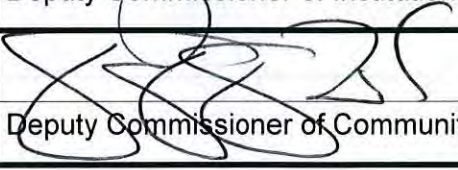
319
320 During the appeal, the reviewer may affirm the action of the Disciplinary Hearing Officer or alter
321 it as he/she deems just and proper except at no point in the appeal process shall the penalty be
322 increased.

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323 If the offender is not satisfied, he/she may file suit in state or federal court. The offender must
 324 provide the ARP number on the court forms.

325
 326 **DOCUMENTS REQUIRED:**

- 327
 328 Community Corrections: ARP Grievance Notification form
 329 Monthly Report
 330 Annual Report
 331 As required by this procedure and through the chain of command

SOP ENFORCEMENT AUTHORITY		
Reviewed and Approved for Issuance		7/30/12
	Deputy Commissioner of Institutions	Date
Reviewed and Approved for Issuance		07/30/12
	Deputy Commissioner of Community Corrections	Date