

## GRIEVANCE REVIEW SYSTEM (INMATE)

### Division 109

~~291-109-0125~~

#### ~~Methods of Reporting Sexual Contact~~

- ~~(1) Inmates should immediately report incidents of information regarding sexual contact between staff and an inmate to a trusted staff or use the Inspector General's hotline number or both.~~
- ~~(2) Inmates with information or concerns regarding sexual contact between staff and an inmate may also use the inmate grievance review system.~~
- ~~(3) The Inspector General's hotline number is posted throughout Department of Corrections facilities.~~

**291-109-0180**

#### **Abuse of Grievance Review System**

- (1) An inmate shall submit no more than two inmate grievances in any one week or six in any calendar month. This will not apply to grievances regarding allegations of sexual abuse. A week is defined as Sunday through Saturday. Grievances submitted in excess of two grievances in any one-week or six in any calendar month will be denied and returned to the inmate, noting that he/she has abused the grievance review system.
- (2) If a life, health or safety situation arises whereby there is valid reason to submit more than two grievances in one week or six in a calendar month, the inmate must clearly state in writing the reason for submission of the grievance above the number allowed. If the grievance coordinator determines that these reasons are not clear, concise or valid for submission of an additional grievance, the grievance will be returned to the inmate denied.
- (3) Actions taken against an inmate who has abused the grievance review system under these rules are not grievable.

Stat Auth: ORS 179.040, 423.020, 423.030 and 423.075

Stat Impl: ORS 179.040, 423.020, 423.030 and 423.075

**291-109-0200**

#### **Grievance Regarding Allegations of Sexual Abuse**

(1) For purposes of this rule sexual abuse is defined as sexual abuse of an inmate by another inmate and sexual abuse of an inmate by a staff member.

(a) Sexual abuse of an inmate by another inmate includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) Contact between the mouth and the penis, vulva, or anus;

(C) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and

(D) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

(b) Sexual abuse of an inmate by a staff member, contractor or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) Contact between the mouth and the penis, vulva, or anus;

(C) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire;

(D) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(E) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to the official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire;

(F) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described by paragraphs (A) – (E) of this section;

(G) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

(H) Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor or volunteer means an invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

(2) Grievances alleging sexual abuse must be submitted to the functional unit grievance coordinator on the departments approved inmate grievance form (CD117). The grievance should have the words "sexual abuse grievance" clearly written on the top of the grievance form.

(3) There is no time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.

(4) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.

(a) If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

(b) If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision.

(5) The grievance coordinator may not refer a grievance alleging sexual abuse to a staff member who is the subject of the grievance. The grievance coordinator will coordinate with the appropriate manager by sending the grievance and a grievance response form (CD 117b) to the manager respondent for reply.

(6) An inmate may appeal the initial grievance response using the grievance appeal form (CD 117c). The appeal must be submitted to the grievance coordinator together with the original grievance, attachments and manager's response.

(7) The department shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

(a) Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.

(b) The department may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The department shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.

(c) At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial of the allegations made by the inmate at that level.

(8) An inmate who alleges that he or she is subject to a substantial risk of imminent sexual abuse may provide the grievance directly to the officer-in-charge (OIC) or the OIC's designee.

(a) After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the OIC or the OIC's designee shall immediately review and take immediate corrective action as necessary to mitigate the risk of sexual assault.

(b) The OIC or the OIC's designee shall provide the emergency grievance and the initial response to the inmate and the grievance coordinator within 48 hours of the submission of the grievance.

(c) The grievance coordinator will issue to the inmate a final response to the emergency grievance within five days of the submission of the emergency grievance.

(d) The initial and final responses shall document the department's determination whether the inmate is in substantial risk of imminent sexual abuse and any action, if necessary, taken in response to the emergency grievance.

Stat Auth: ORS 179.040, 423.020, 423.030 and 423.075

Stat Impl: ORS 179.040, 423.020, 423.030 and 423.075