



## SCDC POLICY/PROCEDURE

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**NUMBER:** GA-01.12

**TITLE:** INMATE GRIEVANCE SYSTEM

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**RESPONSIBLE AUTHORITY:** OFFICE OF GENERAL COUNSEL

**OPERATIONS MANUAL:** GENERAL ADMINISTRATION

**SUPERSEDES:** GA-01.12 (September 1, 2009); (July 1, 2008); (January 1, 2006)

**RELEVANT SCDC FORMS/SUPPLIES:** 10-5, 10-5(a), 19-11

**ACA/CAC STANDARDS:** 4-ACRS-4C-01, 4-ACRS-6B-03, 4-ACRS-6C-03, 4-4284, 4-4301, 4-4344

**STATE/FEDERAL STATUTES:** Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 (Pub.L. 96-247, May 23, 1980, 94 Stat. 349)

**PURPOSE:** To establish guidelines for the development and implementation of an inmate grievance system whereby inmates may seek formal review of complaints relative to disciplinary hearing appeals, classification appeals, Department policies/procedures, directives, or conditions which directly affect an inmate.

**POLICY STATEMENT:** The South Carolina Department of Corrections advocates timely and efficient resolution of complaints and grievances brought to the attention of administrators by inmates. To this end, the Department will develop, administer, and implement an inmate grievance system accessible to all inmates regardless of their custody level, classification, disciplinary status, disabilities, or other administrative or legislative matter(s) affecting inmates. (4-ACRS-6B-03, 4-4284)

At a minimum, the grievance system will be designed to provide inmates with a mechanism by which they may seek formal review of their complaints; provide a vehicle for internal solutions at the level having most direct contact with the inmate; and provide a means for management review of staff decisions and policies/procedures that may be the source of a complaint. Notification of this policy/procedure will be made in compliance with the Civil Rights of Institutionalized Persons Act.

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## **SPECIFIC PROCEDURES:**

### **1. RESPONSIBILITIES/APPLICABILITY:**

1.1 The Office of General Counsel will manage an Inmate Grievance Branch responsible for the development, management, and implementation of a system-wide inmate grievance system.

1.2 The Inmate Grievance Branch will be responsible for developing written procedures designed to address the management and use of the inmate grievance system. The procedures will, at a minimum, address staff and inmate responsibilities relative to the inmate grievance system; limitation requirements for inmates found abusing or misusing the grievance system; definitions of grievable and non-grievable actions; documentation requirements; evaluative mechanisms for ensuring the efficiency and effectiveness of the inmate grievance system; steps in the grievance process; emergency grievance procedures; and confidentiality requirements. Suggestions or problems may be submitted by staff and inmates to the Chief, Inmate Grievance Branch, at any time. Inmates will utilize a "Request to Staff Member," SCDC Form 19-11, for this purpose.

1.3 The inmate grievance system will be available for use by all inmates regardless of their custody level, classification, disciplinary status, disability, or any other administrative or legislative action that may affect any inmate incarcerated in a facility of the South Carolina Department of Corrections. Every inmate assigned to a South Carolina Department of Corrections (SCDC) institution is eligible to utilize the grievance system as set forth in this policy/procedure. Staff assistance will be provided to non-English speaking inmates, inmates unable to read and write, and disabled inmates in order to ensure their access to the grievance system. **(4-ACRS-4C-01, 4-ACRS-6B-03, 4-4284, 4-4344)**

### **2. ORIENTATION:**

2.1 Upon arrival at any SCDC Reception and Evaluation Center, inmates will be provided an explanation of the SCDC inmate grievance process during new admission orientation. Arrangements will be made through the Inmate Grievance Branch to provide non-English speaking, disabled, and or illiterate inmates with this information in a language or mode that they can comprehend. An inmate may also submit an SCDC Form 19-11, "Request to Staff Member," to the IGC at his/her institution concerning any questions about the grievance process. **(4-ACRS-4C-01, 4-ACRS-6B-03, 4-4284, 4-4334)**

2.2 Each SCDC institution will also include in its inmate orientation an oral explanation of how the grievance procedure operates. Wardens may contact the Inmate Grievance Branch to obtain assistance in locating qualified individuals to explain the procedure to non-English speaking, disabled; or illiterate inmates.

2.3 As a part of the Department orientation program, all newly hired employees will receive written and/or oral explanations of the Department's grievance policy/procedure by a representative of the Inmate Grievance Branch.

**3. REPRISALS:** No inmate will be subjected to reprisal, retaliation, harassment, or disciplinary action for filing a grievance or participating in the resolution of a grievance. The grievance procedure will be used by any inmate who is alleging reprisals of this nature. Allegations of reprisal may also be investigated by the Chief/designee, Inmate Grievance Branch, if deemed necessary.

#### 4. CONFIDENTIALITY:

4.1 To the extent possible, all documentation pertaining to inmate grievances will be considered confidential and will not be included as part of an inmate's institutional or central record. Statements made by, or information received from, a grievant or other affected inmate relating to a grievance will not be used to initiate internal disciplinary action against an inmate(s). Grievance forms and accompanying documents will be treated as confidential.

4.2 If an inmate files a grievance that pertains to a loss of property or loss of money as a result of legitimate transactions, a reference may be included in his/her institutional record and central record as to how the matter was resolved. However, this reference will not give any indication that a grievance was filed.

4.3 If it becomes necessary to document any other circumstances or actions which are related to a grievance, a reference may be included in the institutional record and central record; however, it must not give any indication that a grievance was filed.

#### 5. INSTITUTIONAL INMATE GRIEVANCE COORDINATOR:

5.1 A non-uniformed employee at each SCDC institution will be designated as the Institutional Inmate Grievance Coordinator. Coordinators will make certain that all inmates at that institution have access to the grievance procedure regardless of any disciplinary, classification, disabilities, or other administrative decision concerning them. The Institutional Coordinator will receive grievances from the employee designated by the Warden, and will investigate, resolve, and/or recommend disposition.

5.2 The Inmate Grievance Branch Administrator will be primarily responsible for the preparation of the planning stage and evaluation forms but s/he will consult with the Warden/designee and ensure that the Warden/designee has the opportunity to review and provide additional information for the planning stage and evaluation forms. Both forms will be signed by the Inmate Grievance Branch Administrator and the Warden/designee. The planning stage and the evaluation form will not be discussed with the affected employee until all required signatures are obtained. The Inmate Grievance Branch Administrator will ensure that appraisals are completed and processed within proper time limits.

#### 6. MISUSE/ABUSE OF THE GRIEVANCE SYSTEM/LIMITATION:

6.1 Inmates found to be misusing or abusing the inmate grievance system may be subjected to limitation. Exceptions will be made for four (4) types of grievances, which will not be counted against the total(s) if limitation is imposed: disciplinary hearing appeals, classification issues, emergencies, and criminal activity.

6.2 Misuse or abuse of the inmate grievance system may be, but are not limited to, grievances intended to harass another person; the repeated submission of frivolous grievances; and/or the repeated submission of grievances or "Requests to Staff Members," about an issue(s) previously addressed by staff members in written responses.

6.3 **Procedures:** The following procedures will be used for recommending limitations:

~~6.3.1 The Warden, or designee appointed by the Warden, will meet with the inmate to discuss the perceived abuse of the grievance procedure and try to resolve the issue. The Warden may request assistance from the Grievance Administrator, Inmate Grievance Branch, in evaluating the situation. Documentation will be submitted in memo form and will include reason(s) supporting this belief, type (s) of abuse, and volume of grievances. This documentation will include what efforts institutional personnel have made to address the situation and what has led them to believe that use of the grievance procedure has been inappropriate. The request will be forwarded to the Chief/designee, Inmate Grievance Branch, for review and necessary action. *The Warden will inform the inmate via a memorandum that a request for limitation has been forwarded to the Inmate Grievance Branch. This memorandum will include the reasons for the request (number of grievances filed, repeated submissions, frivolous grievances, or Request to Staff, etc.).* (Amended by Change 1, dated August 2,~~

2012.)

**6.3.2** The Chief/Designee, Inmate Grievance Branch, will review the institutional request and may consult with the General Counsel concerning appropriate action. If limiting action is approved, the Chief/Designee, Inmate Grievance Branch, will notify the inmate in writing of the action, the reasons for the action, and the duration. Copies of this letter will be forwarded to the Warden. The inmate may appeal this decision in writing to the General Counsel within five (5) days of his/her receipt of notification.

**7. GRIEVABLE ISSUES: *Only one issue, or one disciplinary conviction may be addressed on each grievance form.*** The following issues will be considered grievable:

**7.1** Department policies/procedures, directives, or conditions which directly affect the inmate;

**7.2** Actions of a staff member toward the inmate;

**7.3** Actions of an inmate against the inmate;

**7.4** Inmate property complaints;

**7.5** Disciplinary Hearing actions to appeal a conviction following an innocent plea, or to appeal any guilty verdict due to alleged technicalities or misinterpretation of evidence, or to appeal a sentence when the sanction imposed was allegedly not proportionate to the rules violation; (4-ACRS-6C-03, 4-4248)

**7.6** Any classification decision that directly affects the inmate's custody level; and (4-4301)

**7.7** Calculation of sentence-related credits.

**8. NON-GRIEVABLE ISSUES:** The following items are considered non-grievable issues:

**8.1** Classification issues, as follow:

**8.1.1** Institutional and security assignments made at Reception and Evaluation Centers;

**8.1.2** Institutional job assignments, except where there may be extenuating medical circumstances involved; and

**8.1.3** Cell, dormitory, or cubicle assignments made within an institution; unless there may be extenuating medical circumstances or criminal activity involved;

**8.1.4** Inmates who sign SCDC Form 18-39, "Classification Waiver" waiving their right to be present for classification hearings, waive any grievance rights regarding any decision made by the Institutional Classification Committee.

**8.2** Administrative transfers which occur due to needed movement for bedspace availability or security-related matters and which do not result in a custody reduction;

**8.3** The disposition of any Department disciplinary proceeding (Disciplinary Hearing, Administrative Hearing) which resulted from a guilty plea by the inmate ; ***if the inmate is convicted of 601, Court Order Credit Loss***; or if the inmate accepted Informal or Administrative Resolution, unless the sanction imposed was excessive in relationship to the rule violation; and (Amended by Change 2, dated March 19, 2013)

**8.4** Any issue outside of the control of the Department:

**8.4.1** State and federal court decisions;

**8.4.2** State and federal laws and regulations;

**8.4.3** Parole Board decisions;

**8.4.4** Any other matters outside the control of the SCDC;

**8.4.5** *If the inmate is convicted of 601, Court Ordered Credit Loss.*

(Amended by Change 2, dated March 19, 2013.)

**8.5** *Inmates can not file a grievance on the following issues:*

**8.5.1** *Unprocessed grievance(s);*

**8.5.2** *Against an Inmate Grievance Coordinator for un-processing a grievance;*

**8.5.3** *The disposition on another grievance;*

**8.5.4** *On an affidavit presented to the court by an employee;*

**8.5.5** *The status of a pending grievance.*

(Section #8.5 added by Change 2, dated March 19, 2013.)

**9. QUESTIONABLE ISSUES:** In those cases where a question may arise as to whether an issue is grievable, the Institutional Inmate Grievance Coordinator will confer with the Chief, Inmate Grievance Branch/Designee who will make that determination. The Institutional Inmate Grievance Coordinator will advise the inmate in writing as to the decision of the Chief, Inmate Grievance Branch/Designee. This decision will be final.

**10. REMEDIES:** All SCDC personnel responsible for responding to an inmate grievance will afford each successful grievant a meaningful remedy to the extent that their respective positions, authority, and resources allow. Remedies may include, but are not limited to, the following:

**10.1 Restitution:** Restoration of property by substituting a state-like item. This will normally occur instead of any monetary reimbursement.

**10.2 Monetary:** A fair value will be given for items lost or destroyed when willful negligence is proven. (See SCDC policies/procedures regarding inmate property.)

**10.3** Changes in policies/procedures, rules, or practices.

**10.4** Correction of records.

**10.5** Other remedies, as appropriate. For example, employee discipline, inmate referral to outside sources, etc. *However, employee disciplinary action which may or may not occur will not be disclosed through the grievance process.*

**NOTE:** The Warden's decision to grant restitution/monetary reimbursement will not require additional approval to have state provided like/issued items issued or deposits made to the grievant's E.H. Cooper Account so long as the amount of reimbursement is within the monetary limits of SCDC Policy/Procedure OP-22.03, "Authorized Inmate Property and Disposition of Unauthorized Property." If an inmate does not accept the Warden's response and appeals to Step 2, the property/monetary reimbursement will be held by the institutional inmate grievance coordinator until a final decision has been made at the Step 2 level.

**11. RESPONSES:** Each grievance will be answered in writing at each level of decision using the applicable

SCDC Form (either form 10-5 or 10-5a) and will be served by the Inmate Grievance Coordinator to the inmate personally. ~~Exceptions to this procedure will be required to be approved by the Chief, Inmate Grievance Branch. The response will state the reasons for the decision reached and inform the grievant of his/her rights of appeal.~~ Time limits at each step in the procedure are contained herein; but in most instances, grievances will be processed from initiation to final disposition within ~~125~~ 171 days, except when the *Branch* Chief/Designee, Inmate Grievance Branch, specifically agrees to a request for an extension. If an extension is granted, the Inmate Grievance Coordinator will notify the inmate in writing (*The extension is at the Step 1 level only. No extension is required at the Step 2 level.*) (NOTE: The maximum extension that may be given is 90 days. Under certain circumstances the grievance process may exceed ~~215~~ 261 days.) (Also see Procedures #13 and #14.) (Amended by Change 2, dated March 19, 2013.)

**12. RECORDS:** Records regarding the filing and disposition of grievances will be maintained at each institution in a manner determined by the Institutional Inmate Grievance Coordinator and the Warden; and approved by the Chief, Inmate Grievance Branch or designee. *All grievances will be maintained for at least seven (7) years from the inmate's release.* Staff participating in the disposition of a grievance will have access to records essential to its resolution. Records pertaining to grievances will not be available to individuals who make recommendations or decisions about parole or other decisions that are not related to the grievance process. Once a grievance has been closed, it should not be reviewed or referred to unless necessary to accomplish legitimate data gathering or other grievance related objectives or for accreditation documentation with only the inmate's name blackened out as appropriate. Should any questions arise as to who should be allowed access to any such record, they will be referred to the Chief, Inmate Grievance Branch, for resolution.

### 13. STEPS IN THE GRIEVANCE PROCESS:

*13.1 Inmates will be allowed to file five (5) grievances per month, which shall include all grievances that are returned unprocessed. After the five (5) grievances have been accepted, all others will be returned unprocessed, with the exception of a disciplinary conviction appeal or a classification reduction in custody level review. Grievances alleging criminal activity will be forwarded to the Division of Investigation (DOI), and if found to be without merit by DOI, will be returned unprocessed if the inmate has already had five (5) grievances accepted for the month. Emergency grievances will be considered on a case by case basis by the Branch Chief of the Inmate Grievance Branch. (New section 13.1 added by Change 2, dated March 19, 2013.)*

~~13.1~~ *13.2 Inmates must make an effort to informally resolve a grievance by either submitting a Request to Staff Member Form or by discussing their complaint with to the appropriate supervisor/staff. However, in certain cases, informal resolution may not be appropriate or possible (e.g., when the matter concerns staff not working at the institution, or when the matter involves allegations of criminal activity). An informal resolution is not necessary when appealing a disciplinary conviction or a custody reduction. If informal resolution is not possible, the grievant will complete Form 10-5, Step 1, which is located in common areas, i.e., living areas, libraries, etc. and will submit place the form to an employee in a designated by the Warden (not the Inmate Grievance Coordinator) grievance drop box within 15 five (5) days of the alleged incident. Requests to hear disciplinary tapes recordings must be submitted to the Major, utilizing a Request to Staff Member form within 15 days of their disciplinary conviction. The Institutional Inmate Grievance Coordinator will be notified of this request, as well as the date the hearing tape recording was played for the inmate, through CRT message/memorandum. Any information obtained from a review of the recording may be included in the Step 2 grievance appeal. If an inmate needs additional space to complete their grievance, only one additional, one sided page will be permitted. An inmate will submit a grievance within the time frames established in the policy. (NOTE: Allegations involving sexual conduct between inmates and staff constitute criminal activity. When an inmate alleges that sexual activity/conduct has occurred between an inmate(s) and a staff member(s), that grievance must be processed as criminal activity.) See Procedure 15., below, for more information on processing a grievance alleging criminal activity. (NOTE: Only one [1] disciplinary conviction can be appealed on a grievance form. Example: If an inmate has three [3] disciplinary convictions for one [1] incident, each conviction must be filed separately.) (4-ACRS-6C-03)*

(The only exceptions are listed at Procedure(s) #13.7 and 14.) The grievance form must contain information about how, *with whom*, and when attempts were made to resolve the problem informally *within five (5) days of the signature date on the SCDC Form 19-11, "Inmate Request To Staff Member," (RTSM)*, a brief statement of the circumstances of the grievance, to include date and time; why the grievant believes s/he is entitled to relief, and a

brief statement of the action(s) requested for which relief may be available through the grievance procedure.

*(NOTE: A copy of the RTSM must be attached to the Step 1 grievance form.)* No inmate or employee (other than those specified in this policy/procedure) will be given a copy of a grievance. Exceptions to policy must be requested, and approved through the Chief, Inmate Grievance Branch. Inmates will only be allowed to submit one grievance per incident or circumstance. (Amended by Change 2, dated March 19, 2013.)

~~13.2~~ **13.3** All grievances will be picked up on a daily basis, during normal working hours, by an employee designated by the Warden (not the Grievance Coordinator). All grievances will be numbered and entered into the automated system (regardless of whether the issue is grievable or non-grievable) within ~~ten (10)~~ **three (3)** working days by an employee designated by the Warden (not the Inmate Grievance Coordinator). The employee designated by the Warden will give the grievances to the Inmate Grievance Coordinator after the grievance has been entered into the automated system. Upon receipt of a grievance, the Institutional Inmate Grievance Coordinator will, within ~~ten (10)~~ **three (3)** working days, complete the additional text for the grievance into the CRT screen and ~~will then attempt to resolve the matter informally by whatever means are appropriate and/or practical.~~ **and enter the grievance information in the grievance log book.** The time frame for responding to the grievance will begin once the text for the grievance has been entered into the OMS system. ~~This may include interviewing affected employees and inmates (only exceptions are emergency grievances or appeals of disciplinary hearings results) or scheduling appropriate mediation between involved parties. If the problem cannot be resolved by this informal method, the~~ **The** Institutional Inmate Grievance Coordinator will conduct ~~an~~ **a** complete investigation (*i.e., Talking with the appropriate staff and/or inmate(s), reviewing all documents and/or reports, etc.*) into the situation and will make recommendations to the Warden concerning disposition of the matter. No employee involved or addressed in a grievance will be assigned to conduct any investigation regarding the same. If the Inmate Grievance Coordinator determines that the grievance will not be processed, the IGC will note this on the *back of the* SCDC Form 10-5, Step 1, under "Action Taken by the IGC," maintain the original for the inmate grievance file, enter "non-grievable" into the automated system, and mail a copy of the SCDC Form 10-5, Step 1, to the inmate in a sealed envelope. **Unprocessed grievances may be appealed, utilizing SCDC Form 19-11, "Inmate Request To Staff Member," (RTSM) to the Branch Chief within ten (10) days of the grievance being returned to the inmate. The inmate must provide a copy of the unprocessed grievance with the RTSM. The inmate can not file a grievance against the IGC for un-processing the grievance. If the inmate has failed to provide necessary information, or has not signed and dated the grievance, s/he will be given five (5) calendar days to re-file a completed properly filled out grievance; this will be noted on the Step 1 form with a due back date included. This information will also be entered into the CRT narrative when the grievance is closed as unprocessed. Unprocessed grievances that have been given five (5) days to re-file cannot be appealed to the Branch Chief.** (Changes in BLUE: Amended by Change 1, dated August 2, 2012.) (Changes in RED: Amended by Change 2, dated March 19, 2013.)

~~13.3~~ **13.4** Any grievance which is sent directly to Central Office Headquarters by the grievant will be returned unprocessed by the Inmate Grievance Branch Staff. (Amended by Change 2, dated March 19, 2013.)

~~13.4~~ **13.5** The Warden will respond to the grievant in writing (in the space provided on SCDC Form 10-5, Step 1), indicating in detail the rationale for the decision rendered and any recommended remedies. The grievant will also be informed of his/her rights to appeal to the next level. The Warden will respond to the grievant no later than ~~40~~ **45** days from the date the grievance was formally entered into the OMS system by the Institutional Grievance Coordinator. ~~(with the exception of a disciplinary hearing appeal, which will be responded to within 30 days).~~ The response will be served by the Institutional Inmate Grievance Coordinator to the grievant, within ~~five (5) working days;~~ **ten (10) calendar days**, and the grievant will sign and date the response acknowledging receipt. The Inmate Grievance Coordinator will maintain the original grievance for the inmate's grievance file and a copy will be given to the inmate. (Amended by Change 2, dated March 19, 2013.)

~~13.5~~ **13.6 Appeals to the Responsible Official:** If the grievant is not satisfied with the decision of the Warden, the grievant may next appeal to the Division Director of Operations for final resolution of the grievance. Matters under the administrative jurisdiction of the Department Director and which do not come within the scope of authority/responsibility of the Division Director of Operations may be appealed to the appropriate Office Director or Division Director for final review of the grievance. All reviews and/or appeals of any inmate grievance will be allowed automatically without interference from any Department personnel. **(4-ACRS-6B-03, 4-ACRS-6C-03, 4-4284)** (Amended by Change 2, dated March 19, 2013.)

~~13.6~~ **13.7 Appeal Process:** The grievant may appeal by completing the SCDC Form 10-5a, Step 2, ~~and submitting this form, as well as the completed copies of Step 1,~~ to the Institutional Inmate Grievance Coordinator within five (5) calendar days of the receipt of the response by the grievant, *by placing the Step 2 form in the designated institutional grievance box.* If an inmate needs additional space to complete their step 2 grievance, only one (1) additional one-sided page will be permitted. ~~The grievant will not write on the back of any Step 1 or Step 2 form.~~ The Institutional Inmate Grievance Coordinator will forward the original Step 2, ~~the original a clear copy of the Step 1 grievance,~~ and copies of necessary documentation to the Inmate Grievance Branch within five (5) calendar days. The Inmate Grievance Branch will confirm receipt of the appeal, conduct any further investigation necessary, prepare a report, and present all available information to the responsible official. The responsible official will render the final decision on the grievance within ~~60~~ 90 days from the date that the Institutional Inmate Grievance Coordinator received the appeal of the Warden's decision. The responsible official's decision will be returned to the Institutional Inmate Grievance Coordinator. The Institutional Inmate Grievance Coordinator will then serve the response to the grievant within ~~five (5)~~ ten (10) working days and have him/her sign and date it acknowledging receipt. The Inmate Grievance Coordinator will maintain the original grievance for the inmate's grievance file and a copy will be given to the inmate. The response of the responsible official will be the Department's final response in the matter. Any action required to implement the Department's final response will require no additional signatures/approval. ~~The Department's final response implies the Department Director's approval.~~ (Amended by Change 2, dated March 19, 2013.)

~~13.7~~ **13.8 Time Limits:** Refer to Section 11 for time limitations on grievance responses. (Amended by Change 2, dated March 18, 2013.)

~~13.8~~ **13.9 ADMINISTRATIVE LAW COURT:** As part of the Department's final answer to a grievance, the inmate will be notified that any further appeal must be initiated within 30 days after receipt of the Department's final answer. This appeal must be contained on the South Carolina Administrative Law Court "Notice of Appeal" that will be attached to the Department's final answer and must be sent to the Administrative Law Court. Instructions regarding completion of the form, and information indicating where the form must be sent, will also be provided to the inmate. (Amended by Change 2, dated March 19, 2013.)

~~13.9~~ **13.10** Exceptions to the ~~±5~~ five (5) day time limit requirement will be made for grievances concerning policies/procedures. Exceptions may also be made for incident grievances, provided that the inmate can show reasonable cause, i.e., inmate physically unable to initiate grievance due to hospitalization, court appearance, etc. *All exceptions will be determined by the Branch Chief/Designee of the Inmate Grievance Branch.* (Amended by Change 2, dated March 19, 2013.)

#### **14. EMERGENCY PROCEDURES:**

**14.1** An emergency will encompass, but is not limited to, situations, actions, or conditions in which any person's health, safety, or welfare is threatened or in serious danger. It is the responsibility of the grievant to demonstrate the factors creating the substantial risk of personal injury or other serious and irreparable harm. The Institutional Inmate Grievance Coordinator will fax a copy of the grievance to the Chief/Designee, Inmate Grievance Branch, to determine if a substantial risk or serious harm is present and warrants the grievance being processed as an "emergency."

**14.2** Once it is determined that the grievance is an emergency, it will be forwarded immediately to the Warden if resolution of the issue(s) is within the Warden's capability to provide. The Warden will conduct whatever investigation is deemed necessary and will respond to the inmate within no more than seven (7) days after receipt of the emergency grievance. If an emergency grievance involves the safety of an inmate, the Warden will take immediate steps to implement the appropriate precautions or temporary actions without waiting for an investigation to be conducted.

**14.3** If a grievance is determined to be an emergency grievance which is not within the Warden's capability to resolve, it will be faxed without substantive review immediately to the Chief/designee, Inmate Grievance Branch, for review and further forwarding to the responsible official. The responsible official will conduct an investigation and will respond to the inmate within seven (7) days of receipt of the grievance. The response will be faxed by the Chief, Inmate Grievance Branch, to the Institutional Inmate Grievance Coordinator, who will deliver the response



to the inmate and have him/her sign it acknowledging receipt.

**14.4** If the grievance is determined not to be an emergency, the Institutional Inmate Grievance Coordinator will be notified, who will note in his/her response that the grievance was not deemed to be emergency, and the grievance will then be routinely processed through the system as if it were a normal grievance.

**15. GRIEVANCES ALLEGING CRIMINAL ACTIVITY:** Any grievance which alleges criminal activity will be referred immediately to the Chief/designee, Inmate Grievance Branch. The Inmate Grievance Coordinator will note on the grievance tracking CRT screen that the grievance has been forwarded to the Inmate Grievance Branch for possible investigation by the Division of Investigations and the date on which the grievance was forwarded. The Chief/designee, Inmate Grievance Branch, will consult with the Division of Investigations to determine if a criminal investigation would be appropriate. If deemed appropriate, the grievance will be forwarded to the Division of Investigations, to be handled in accordance with applicable SCDC policies/procedures. The grievance will be held in abeyance until the Division of Investigations completes their review/investigation. If it is determined that a criminal investigation is not required, the grievance will be processed in accordance with the procedures contained herein.

**15.1** If it is determined by the Division of Investigations that the grievance will be referred to SLED for review/investigation, the grievant will be notified in a Step 1 Warden's response that the grievance has been forwarded to SLED. As the time frame for SLED to conduct an investigation is out of the control of SCDC, the Institutional Grievance Coordinator will forward the original grievance to the Inmate Grievance Branch and the grievance will be administratively closed until SCDC receives the final report. The grievant will then receive a Step 2 response to the investigation and will be given an opportunity to appeal to the next level if dissatisfied with the response.

**16. ABANDONMENT OF A GRIEVANCE:** A grievance will be considered to be abandoned in the following cases:

**16.1** The inmate refuses to sign the grievance form at any level of the process; or

**16.2** The inmate refuses to actively participate in the resolution process if the inmate's participation is deemed vital to the process; or

**16.3** During the serving of any grievance if the inmate's behavior meets any of the criteria of a disciplinary charge under Agency Policy OP-22.14, "Inmate Disciplinary System," the grievance will be closed and disciplinary action may be imposed.

**16.4** The inmate refuses to follow through with the IGC's recommendations within five (5) days after the return of the inmate's unprocessed grievance.

**16.5** If an inmate escapes any open grievance will be considered abandoned and will be administratively closed.

**17. MONITORING, EVALUATION, COMPLAINTS:** The Inmate Grievance Branch will serve as monitor to ensure compliance with this policy/procedure. An audit checklist will be conducted by the assigned Inmate Grievance Administrator for each of their respective institutions on an annual basis. The Chief/designee, Inmate Grievance Branch, will arrange for technical assistance in training and coordinating activities related to the inmate grievance procedure at each institution, at the Central Office, and the Training Academy.

**17.1** In order to provide continuing evaluation of this policy/procedure, the Division of Resource and Information Management will provide monthly reports to the Chief, Inmate Grievance Branch. The format of the reports will be determined by the Chief, Inmate Grievance Branch.

~~**17.2** Each Inmate Grievance Coordinator will be required to submit to their assigned Inmate Grievance Administrator a monthly report summarizing the number and types of grievances which have been received at their institution during the month. This report will be due by the 5th of each month to the Inmate Grievance Branch~~

~~Administrator. Prior to submitting the report, the Inmate Grievance Coordinator will ensure their Warden has reviewed the information contained therein. (Amended by Change 2, dated March 19, 2013.)~~

~~17.3~~ 17.2 *With the exception of the non-grievable, grievance issues noted in Section 8.5, and any grievance concerning the performance of any Institutional Inmate Grievance Coordinator/Inmate Grievance Administrator shall must be advanced to the Step 2 level and referred to the Chief/ Designee, Inmate Grievance Branch, for investigation and response. Time frames for responses are the same as for any Step 2 grievance. A copy of the grievance will be forwarded to the inmate, informing him/her that the grievance has been advanced to the Step 2 level, and forwarded to the Inmate Grievance Branch. (Amended by Change 2, dated March 19, 2013.)*

## **18. PROCEDURES FOR INMATES RELEASED/TRANSFERRED:**

**18.1** If an inmate is released from the custody of the SCDC and has an open grievance, the grievance will be terminated. *Please refer to Section 12 for disposition of the grievance file.*

**18.2** If a grievant is transferred from one SCDC institution to another while a grievance is in progress, the Institutional Inmate Grievance Coordinator at the losing institution will forward the inmate's grievance file via confidential, inter-departmental mail to the Institutional Inmate Grievance Coordinator at the gaining institution within ~~five (5)~~ *ten (10) working* days of the inmate's transfer. (Amended by Change 2, dated March 19, 2013.)

**18.3** All grievances that are transferred from one institution to another to be served to the grievant will retain their original grievance numbers. ~~For clarification and reference purposes, the Institutional Inmate Grievance Coordinator at the gaining institution will add the three (3) or four (4) letter institutional prefix in parentheses at the end of the original grievance number when referring to the grievance in future correspondence, appeals, etc. Once the grievance reaches the gaining institution, the Inmate Grievance Coordinator has ten (10) working days to serve the Warden's response. The Inmate Grievance Coordinator must update the text in the CRT, and notify the Inmate Grievance Coordinator at the losing institution of the status of their pending grievance(s) via e-mail or CRT. However, it will still be the responsibility of the Inmate Grievance Coordinator at the losing institution to monitor the status of all transferred grievance(s), to ensure the grievance(s) have either been served and closed out in the automated system, or appealed to the Step 2 level. (Amended by Change 2, dated March 19, 2013.)~~

~~18.4~~ If a grievant is transferred while the grievance is in the "Informal Resolution" stage, then the grievance will be forwarded to the next level in the procedure and will receive a Warden's response from the losing institution. (Amended by Change 2, dated March 19, 2013.)

~~18.5~~ 18.4 When an inmate is transferred and wishes to file an incident grievance involving the losing institution, the Institutional Inmate Grievance Coordinator at the gaining institution will forward the completed original grievance form along with pertinent documentation within five (5) working days to the institutional designee at the losing institution to have a number assigned, who will then forward the grievance to the Institutional Grievance Coordinator to process. (Amended by Change 2, dated March 19, 2013.)

~~18.6~~ 18.5 If it is determined by the Institutional Grievance Coordinator at the gaining institution that the grievance is non-grievable or has violated time frames for filing a grievance, the grievance will be closed, filed as unprocessed and a copy of the grievance returned to the inmate. (Amended by Change 2, dated March 19, 2013.)

~~18.7~~ 18.6 If a grievant is transferred as a result of a disciplinary hearing and then files a grievance after being convicted, the grievance will be processed by the Institutional Inmate Grievance Coordinator where the disciplinary hearing took place. (Amended by Change 2, dated March 19, 2013.)

~~18.8~~ 18.7 The serving of any grievance that is filed by a grievant who has been transferred to Gilliam Psychiatric Hospital, an outside hospital, crisis intervention, or any area outside the control of SCDC, (i.e. court appearance or other jurisdiction) will be held in abeyance until the inmate has been returned to their assigned institution. The Institutional Grievance Coordinator will then serve the grievance within five (5) working days and all appeal rights will commence. (Amended by Change 2, dated March 19, 2013.)

~~18.9~~ 18.8 Any condition not referenced above will be referred to the Chief, Inmate Grievance Branch, for resolution. (Amended by Change 2, dated March 19, 2013.)

## 19. DEFINITIONS:

**CRIPA** refers to the Civil Rights of Institutionalized Persons Act.

**Criminal Activity** refers to any illegal activity to include sexual misconduct, staff assaults, transfer of drugs/contraband, etc.

**Days** refers to calendar days, unless otherwise stated.

**Emergency Grievance** refers to any complaint which, if handled according to the regular time limits required by the inmate grievance system, would subject an inmate to substantial risk of personal injury or to other serious and irreparable harm.

**Grievance** refers to a formal complaint limited to matters affecting the complaining inmate and to matters that the Department has the authority to remedy.

**Limitation** refers to a sanction imposed on a grievant found to be abusing or misusing the inmate grievance system. Inmates subjected to a limitation may still utilize the grievance system for processing other legitimate grievances that do not relate to the matter(s) for which the limitation was imposed. Exceptions may be made to a limitation pursuant to Department policy/procedure.

**Misuse/Abuse of the Grievance System** refers to the repetitive filing of grievances on the same matter; filing of grievances that contain vulgar, indecent, or offensively insulting language; filing of grievances that agitate, harass, disrupt, or irritate by petty provocation or are not designed to lead to any practical result; and filing of grievances by grievants who knowingly make false statements to SCDC personnel for the purpose of harming another person.

**State-like item** refers to an item which can be purchased in the institution canteen, or is issued by the commissary.

SIGNATURE ON FILE

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Jon E. Ozmint, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT.