

 <p><b>DIVISION OF ADULT INSTITUTIONS</b></p> <p><b>POLICY AND PROCEDURES</b></p>	<b>DAI Policy #:</b> 310.00.01	<b>Page</b> 1 of 5
	<b>Original Effective Date:</b> 12/20/90	<b>New Effective Date:</b> 08/22/06
	<b>Supersedes:</b> AD 11.6	<b>Dated:</b> 02/05/03
	<b>Administrator's Approval:</b> Steven B. Casperson	
<b>Required Posting or Restricted:</b>		
<input checked="" type="checkbox"/> <b>Inmate</b> <input checked="" type="checkbox"/> <b>All Staff</b> <input type="checkbox"/> <b>Restricted</b>		
<b>Chapter:</b> 310 Complaint Procedures		
<b>Subject:</b> Inmate Complaints Regarding Staff Misconduct		

## POLICY

Complaints involving allegations of staff misconduct shall be expediently referred to the Warden for investigation. Complaints regarding staff sexual misconduct will be handled according to provisions of Executive Directive 16A to ensure that investigation by law enforcement is not impeded.

## REFERENCES

[WI Administrative Code 303](#) – Discipline

[WI Administrative Code 310](#) – Complaint Procedures

[Executive Directive 16A](#) – Staff Sexual Assault of Offenders

## DEFINITIONS, ACRONYMS, AND FORMS

CCE – Corrections Complaint Examiner

DAI – Division of Adult Institutions

DOC - Department of Corrections

ICE – Institution Complaint Examiner

ICRS – Inmate Complaint Review System

Staff Misconduct - Any behavior or act which could reasonably be interpreted as constituting a violation of work rules and which could result in formal employee disciplinary action being taken or which would normally result in a fact-finding or pre-disciplinary hearing being initiated.

Staff Sexual Misconduct – Any behavior that appears to violate provisions of Executive Directive 16A.

## PROCEDURE

- I. **Receiving Complaint Alleging Staff Misconduct, Inmate Interview**
  - A. When an ICE receives a complaint alleging staff misconduct of a non-sexual nature, the inmate must be interviewed as soon as possible. At the interview the inmate will be advised of the provisions of DOC 303.271 (Lying About Staff). If the inmate wishes to proceed with the complaint an in-depth interview must follow, resulting in a detailed written statement signed by the

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inmate. Refusal of the interview, refusal to provide details or refusal to sign the statement shall result in dismissal of the complaint for failure to cooperate.

- B. If a complaint alleges staff sexual misconduct involving an inmate, the ICE shall not interview the complaining inmate or anyone else, but instead shall immediately refer the complaint to the Warden to ensure processing in compliance with Executive Directive 16A.

## II. **Suspicion of Staff Misconduct**

If, after interviewing the inmate, the ICE has reason to believe that staff misconduct may have occurred, he or she shall immediately suspend the investigation, and seek a meeting with the Warden and other institution supervisors, as the Warden deems appropriate. Following his/her review of the complaint and the ICE's information and advice, the Warden will determine whether or not there is adequate evidence of work rule violations to warrant a disciplinary investigation or invoke the disciplinary process.

## III. **Disciplinary Investigation**

- A. If the Warden decides that a disciplinary investigation is warranted, the complaint shall be assigned to the ICE responsible for such investigation(s). The original ICE shall then issue a report and recommend the complaint be dismissed with the modification that it be further processed pursuant to the applicable personnel rules and collective bargaining agreements, citing either DAI Policy 310.00.01 or Executive Directive 16A. That report shall also indicate that because the investigation process is regulated by state law and collective bargaining agreements which protect the privacy and due process rights of staff, no further information will be given to the complainant. That report shall then be submitted to the Warden for review consistent with DOC 310.11(11) and the inmate notified of the Warden's decision consistent with DOC 310.12(1).
- B. If the ICE is part of the affected employee's chain of command s/he would abstain from participation in any process initiated as a result of information obtained through the ICRS.
- C. In order to preserve the rights of the inmates under the ICRS, and to ensure that corrective action is taken in a timely fashion, the Warden should establish time frames for the disciplinary investigation during the initial meeting. Ordinarily, such investigation should be completed within the ICRS time frames. If that is not possible, at a minimum, the investigation should be conducted in a timely fashion following the personnel guidelines.
- D. If additional evidence gathered during the investigation raises new issues of work rule violation the ICE should again consult the Warden. The ICE should not interview the employee(s) who may be subjected to disciplinary action if there is reason to believe that such an interview may compromise a

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subsequent disciplinary investigation. If during the course of an interview an employee unexpectedly and voluntarily acknowledges violation of a work rule, the ICE shall immediately terminate the interview.

- E. In cases involving non-institution employees, such as Bureau of Correctional Enterprises, Classification, volunteers, and contract employees, the supervisor or manager from that area should be included in the initial meeting between the ICE and the Warden. In most cases, responsibility for the disciplinary investigation would rest with the employing unit. In all such cases, the employing unit would be responsible for notifying the Warden of the outcome of the investigation.
- F. Under the ICRS, an inmate may appeal the Warden's decision. Appeals under this policy will be limited to whether or not the actions taken were appropriate. In order to make that determination; it may be necessary for the CCE to review the final report maintained by the Warden. The CCE shall have access to that report upon request to the Warden.
- G. Most ICE's are not supervisors and have not received training on either the basic disciplinary guidelines or on the due process rights of employees. The Department of Corrections should provide training on due process, the DOC uniform disciplinary guidelines and disciplinary investigations to the ICE's. This training will enable the ICE's to avoid trespassing in disciplinary areas and inadvertently violating employees' rights to representation and due process.

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

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<b>Will Implement</b> <input type="checkbox"/> As written <input type="checkbox"/> With below procedures for facility implementation		
<b>Warden's/Superintendent's Approval:</b>		

**FACILITY PROCEDURE**

- I.
  - A.
  - B.
    - 1.
    - 2.
      - a.
      - b.
      - c.
    - 3.
  - C.

II.

III.

**RESPONSIBILITY**

I. Staff

II. Inmate

III. Other

**DIVISION OF ADULT INSTITUTIONS FACILITY IMPLEMENTATION PROCEDURES**

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