



# WYOMING DEPARTMENT OF CORRECTIONS

## Policy and Procedure #3.100

### Inmate Communication and Grievance Procedure

Page 1 of 33

<b>Authority:</b> Wyoming Statute(s): 25-1-104; 25-1-105  PREANS: 115-52  ACA Standard(s): 4-4284; 4-4394; 4-4016	<b>Effective Date:</b> December 15, 2012 <b>Revision/Review</b> <b>History:</b> 11/15/11 10/20/08 04/15/07 <b>Summary of Revision/Review:</b> Updates existing policy pursuant to annual review.
<b>Cross Reference of Policy:</b>	<b>Supersedes Existing Policy :</b>
<b>Approved:</b>  R.O. Lampert Robert O. Lampert, Director	
11-5-12 Date	

### APPROVED FOR INMATE DISTRIBUTION

*The policy and procedures set forth herein are intended to establish directives for staff members and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty or property interests for staff members or inmates, or an independent duty owed by the*

*WDOC to staff members, inmates, or third parties. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.*

### REFERENCE

1. ATTACHMENTS

- A. WDOC Form # 320: *Inmate Communication Form*
- B. WDOC Form # 321: *Inmate Grievance Form*
- C. WDOC Form # 322: *Inmate Grievance Appeal Form*
- D. WDOC Form # 323: *Time Schedule For Grievance Procedure*
- E. WDOC Form # 324.1: *Notice for Permanent Posting – Inmate Grievance*
- F. WDOC Form #328: *Grievance Response Form*
- G. WDOC Form #331: *Inmate Grievance Receipt*

2. OTHER

- A. Civil Rights of Institutionalized Persons Act, Pub. L. 96-247, 94 Stat. 399 (42 U.S.C. § 1997)
- B. Title 28, Code of Federal Regulations, Part 40
- C. Department of Justice Information Handbook for certification of inmate grievance procedures pursuant to the Civil Rights of Institutionalized Persons Act (April 14, 1992)



WYOMING DEPARTMENT OF CORRECTIONS	Policy and Procedure #3.100	Page 2 of 33
		Inmate Communication and Grievance Procedure

## I. PURPOSE

- A. **Inmate Communication and Grievance Review.** The purpose of this policy is to establish a uniform set of guidelines and procedures to direct proper and effective communication between Wyoming Department of Corrections staff and inmates and for the administration of the department's internal grievance review and appeal system for inmates confined in WDOC correctional facilities. This policy and procedure is intended to establish an administrative process to resolve valid and justified inmate grievances without involvement of the courts. It also provides the courts with a written record of the grievance and administrative action taken, if the matter should reach the courts. Accordingly, this policy establishes the available administrative remedies that the courts may require to have been exhausted prior to proceeding in an action brought under 42 USC § 1983.

## II. POLICY

- A. **Effective Communication and Informal Resolution.** It is the policy of the Wyoming Department of Corrections (WDOC) to promote and encourage proper and effective communication between staff and inmates and to encourage inmates to address their concerns informally through either dialog or the use of written inmate communication forms where possible. This policy provides for a system of two-way communication between all levels of staff and inmates. (ACA-4-4016)
- B. **Fair and Equitable Treatment of Inmates.** Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the WDOC that all inmates be treated fairly and equitably, and that staff actions and decisions be consistent with the rules, policies and procedures of the department.
- C. **Inmate Grievance Review and Appeal System.** Recognizing that due to the complex nature of the correctional setting some issues/disputes between staff and inmates may not be readily resolved at the informal level, it is the policy of the WDOC to permit and encourage all inmates to seek resolution of issues/disputes, which cannot be resolved informally through a dialog with staff or by written communications, by using the department's internal inmate grievance review and appeal system established in this policy and procedure. This inmate grievance procedure is intended to serve as an administrative means for the expression and resolution of inmate problems and provides for the following: written responses to all grievances, including the reasons for



WYOMING DEPARTMENT OF CORRECTIONS	Policy and Procedure #3.100	Page 3 of 33
		Inmate Communication and Grievance Procedure

the decision; response within a reasonable, prescribed time limit, with special provisions for responding to emergencies; supervisory review of grievances through two levels of appeal; participation by staff and inmates in the procedure's design and operation; access by all inmates, with guarantees against reprisals; applicability over a broad range of issues; and means for resolving questions of jurisdiction. (ACA 4-4284)

- D. Official Communications and the Inmate Grievance System.** It is the policy of the WDOC that the availability of this policy and procedure does not prohibit inmates from writing to WDOC officials, the Governor, the Attorney General, or any other official. However, letters to state officials regarding issues subject to this policy and procedure may be responded to with instructions to utilize the inmate communication and grievance procedure if the inmate has not done so beforehand. Letters to WDOC officials regarding issues subject to this policy and procedure that have already been reviewed and responded to in accordance with this policy and procedure will be acknowledged, but shall not receive an additional response regarding those issues beyond the grievance and appeal responses previously provided.
- E. Retaliation Prohibited.** It is the policy of the WDOC that participation in the inmate grievance review and appeal system shall not result in formal or informal reprisal. Any action or threat of action against anyone for the good faith use of or good faith participation in the inmate grievance review and appeal system is prohibited, and any such actions shall constitute a basis for an additional grievance.

### III. DEFINITIONS

- A. Chief Executive Officer (CEO):** A CEO is identified, but not limited to, the following positions: Director, Deputy Director, division administrators, deputy administrators, wardens, district supervisors, adult community corrections coordinator, and adult community corrections directors.
- B. Communication:** A process by which information is exchanged between individuals, usually through verbal or written message.
- C. Communication Continuum:** (*For this policy only.*) A system of communication in which each inmate is required to attempt to informally resolve issues/disputes at the lowest level possible before advancing to the next level.



WYOMING DEPARTMENT OF CORRECTIONS	Policy and Procedure #3.100	Page 4 of 33
		Inmate Communication and Grievance Procedure

- D. Correctional Facility:** Any adult correctional facility operated by the Wyoming Department of Corrections or correctional facilities and county jails under contract with the Wyoming Department of Corrections.
- E. Department of Corrections Employee:** Any person employed full-time, part-time, or under temporary appointment by the Wyoming Department of Corrections; any person under contractual arrangement to provide services to the Wyoming Department of Corrections; any person employed by private or public sector agencies who is serving under department-sanctioned special assignment to provide services or support to Wyoming Department of Corrections' programs.
- F. Director:** The individual appointed by the Governor as Chief Administrative Officer of the Wyoming Department of Corrections, pursuant to W.S. § 9-2-1706.
- G. Emergency:** Any condition or situation where life, health, or safety may be threatened or where time frame considerations necessitate an immediate response or remedial action.
- H. Emergency Grievance:** *(For this policy only.)* A grievance involving a problem which results from an unforeseen combination of circumstances, or the resulting state of those circumstances, and which calls for immediate action. If disposition of the grievance according to the regular time limits would subject the inmate to a substantial risk of personal injury, or cause other serious or irreparable harm to the inmate, then it will be considered an emergency.
- I. Frivolous Grievance:** *(For this policy only.)* Any grievance that the inmate knows or reasonably should know is without merit, is irresponsible, or has no rational basis in fact or law; any grievance written in bad faith.
- J. Grievance Manager:** *(For this policy only.)* The individual designated by the correctional facility Chief Executive Officer to investigate grievances and/or coordinate grievance responses.
- K. Inmate:** Any person under the supervision of the Wyoming Department of Corrections who is not on parole or probation status. An inmate is a person who is incarcerated in any Wyoming Department of Corrections' correctional facility, county jail, municipal jail or in-state/out-of-state contract facilities, to include adult community corrections centers, who is committed to the custody and supervision of the Wyoming Department of Corrections.



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 5 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- L. Inmate Communication Form:** *(See WDOC Form #320.)* A form designed for inmate use in communicating with or making requests of Department of Corrections' employees and in which employees can respond to the inmate; commonly referred to as a "kyte" or "kite".
- M. Malicious Grievance:** *(For this policy only.)* Any grievance in which the inmate willfully falsifies information with the intent to annoy, slander, or injure a correctional facility staff member, inmate, or any other person.
- N. Policy:** *(For this policy only.)* A written policy and procedure, regulation, rule or standard which personally affects a grievant.
- O. Practice:** *(For this policy only.)* A course of action or conduct which, although not written, is generally recognized and applied within a correctional facility, program, or office as the standard operating procedure for equal application among offenders in similar circumstances and which personally affects a grievant. An isolated course of action or conduct which is applied only to the grievant and not to the general inmate population is not a practice within the meaning of this definition.
- P. PREANS:** Part 115 of Title 28 of the Code of Federal Regulations, titled Prison Rape Elimination Act National Standards, and adopted in accordance with the Prison Rape Elimination Act of 2003.
- Q. Staff Member:** Wyoming Department of Corrections' employees (temporary and permanent), contractors, volunteers, on-site vendors, and persons from other agencies, organizations and businesses whose work is performed primarily on or within Wyoming Department of Corrections correctional institutions or facilities.
- R. Working Day:** *(For this policy only.)* Monday through Friday, excluding weekends and holidays.

#### **IV. PROCEDURE**

##### **A. Notification to Inmates and Employees About This Policy and Procedure**

- 1.** Chief Executive Officers (CEOs) shall ensure that every inmate and every Department of Corrections employee has ready access to this policy and procedure regarding the inmate communication and grievance system. (ACA 4-4284)







<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 8 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- D. The Inmate Communication Continuum.** Each inmate is required to attempt to first request information from and/or resolve issues/disputes at the lowest level possible within the organization at the facility level before advancing to the next level whenever circumstances permit. Inmates requiring information from or seeking to resolve issues/disputes with staff shall communicate using the department's approved communication methods, beginning with face-to-face verbal communication, then use of the inmate communication form. Issues/disputes not resolved to the inmate's satisfaction through use of the inmate communication continuum may be pursued through the inmate grievance process.
- 1. Face-to-Face, Verbal Communication.** The first step for an inmate in communicating with or requesting information from staff, or in resolving an issue or dispute, is to communicate directly with the appropriate staff member.
    - i.** If an inmate has a request or needs a staff's assistance, he/she should first verbally ask the staff member for the information/item requested, unless the inmate is required by policy or practice to place that specific request in writing (*e.g.*, requests for indigent writing supplies.)
    - ii.** If there is an issue or dispute involved, the inmate should contact the staff within five (5) calendar days of the incident or occurrence giving rise to the issue/dispute and attempt informal resolution through face-to-face, verbal communication, unless doing so would clearly aggravate the issue/dispute.
    - iii.** Experience has demonstrated that inmate requests and issues/disputes between inmates and staff can be resolved more effectively when inmates first speak directly to the appropriate staff member about the request or a perceived problem/issue.
    - iv.** The interaction from face-to-face communication between inmates and staff often leads to faster and more satisfactory resolution of requests and issues/disputes, while reducing staff time and paperwork
  - 2. Inmate Communication Form (WDOC Form #320).** An inmate shall use WDOC Form #320, *Inmate Communication Form*, to communicate to facility staff at the lowest level of responsibility for resolving or responding to the question/issue when the inmate is unable to obtain the



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 9 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

information he/she seeks or to resolve his/her issue/dispute by first speaking to the staff through face-to-face communication.

- i.** An inmate shall submit WDOC Form #320 within ten (10) calendar days of the incident or occurrence giving rise to the issue/dispute (*i.e.*, within five (5) calendar days of attempting informal resolution by first speaking to the staff member through face-to-face communication to seek resolution of the issue/dispute).
- ii.** Inmate communications that are sent to employees other than to staff at the lowest level of responsibility for resolving or responding to the issue/dispute will be returned to the inmate, with instruction that the inmate resubmit the communication to the appropriate staff member identified by staff in the response.
- iii.** Inmate communications containing profanity, threats, or other inappropriate language or comments will be returned to the inmate without further processing by staff, and with instruction that the inmate resubmit the communication using appropriate language that is civil and respectful in tone and manner. Such return shall not extend any of the filing timelines outlined in this policy.
- iv.** Inmate communications containing profanity, threats, or other inappropriate language or comments may subject the inmate author to disciplinary action in accordance with the Code of Inmate Discipline.
- v.** Staff shall make every reasonable effort to respond to WDOC Form #320 within five (5) working days of receipt.
- vi.** If the inmate does not receive a response from the staff member within ten (10) working days, the inmate may send a second WDOC Form #320 to the staff member to seek resolution of the issue/dispute, or he/she may direct a WDOC Form #320 to the staff member's immediate supervisor.
- vii.** In lieu of sending a second WDOC Form #320 to the staff member or sending a WDOC Form #320 to the staff member's immediate supervisor, if the inmate does not receive a response from the staff member within ten (10) working days, the inmate may choose to immediately proceed to the inmate grievance procedure.

## **E. Overview of the Inmate Grievance Procedure**



**1. General Guidelines**

- i.** WDOC Form #321, *Inmate Grievance Form*, and WDOC Form #322, *Inmate Grievance Appeal Form*, shall be readily available to inmates from the inmate’s housing unit officer, counselor or case manager, and/or from supervisors.
- ii.** If an inmate is unable to resolve an issue through informal communications by speaking with appropriate staff through face-to-face communication or by use of a WDOC Form #320, *Inmate Communication Form*, or if the situation is such that it would have been inappropriate to do so, he/she may seek resolution of the issue/dispute by submitting a written inmate grievance using WDOC Form #321, *Inmate Grievance Form*, in accordance with this policy. Inmate grievances shall be submitted in a civil and respectful tone and manner.
- iii.** An inmate grievance must include a complete description of the incident, action, or application of the policy being grieved, including the date and approximate time of the occurrence, and a summary of any attempts at informal resolution made using the communication continuum. If the inmate has any referenced documents, such as inmate communications, etc., it is recommended that copies of those documents also be attached to the grievance for reference.

  - a.** The grievance documents that the inmate submits with the initial grievance (or with the first level appeal to the correctional facility CEO) will be returned to the inmate along with the written response; and
  - b.** The inmate will be provided with the original and one (1) copy of the written response to the grievance (or the written response to the first level appeal of the grievance). The original documents are for the inmate’s records and the copy is for use in furtherance of the grievance process should the inmate decide to do so.
  - c.** The grievance documents submitted with the second level appeal to the Director will not be returned to the inmate.
- iv.** Grievances will not be accepted or processed if they are not on the approved WDOC Form #321 *Inmate Grievance Form* or WDOC



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 11 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

Form #322 *Inmate Grievance Appeal Form*. Further, grievances will not be accepted or processed if they exceed the space authorized by the forms.

- a.** An inmate who attempts to grieve an issue by any written communication other than WDOC Form #321 or WDOC Form #322 shall have his/her communication returned to him/her with instruction that the inmate resubmit the grievance or appeal on the department's approved form.
- b.** Failure to use the required forms shall not serve to extend the timeframes for filing at each step of the inmate grievance process.
- v.** Impaired or handicapped inmates needing assistance in utilizing the inmate grievance process may obtain reasonable assistance from their assigned counselor or case manager, unless the counselor or case manager is the subject of the complaint, in which case, any needed assistance shall be provided by the inmate's unit supervisor.
- vi.** An inmate grievance may request review of just one (1) matter/action/incident per inmate grievance form.
- vii.** An inmate grievance may request review of only one (1) staff member's actions/decisions on a single grievance form.
- viii.** Only one (1) grievance per incident per inmate will be allowed.
- ix.** An inmate may not submit a group grievance that represents other inmates, or act as a spokesperson for other inmate(s).
- x.** An inmate may not submit more than three (3) inmate grievances in any one week, or eight (8) in any calendar month, unless a valid justification exists. Grievances submitted in excess of these limitations shall be returned to the inmate without further processing, noting that the continued filing of excess grievances may constitute abuse of the grievance system.
  - a.** If an inmate believes there is a valid justification for submitting a grievance in excess of the numbers permitted, the inmate must clearly and concisely state in writing the reasons for submitting the additional grievance.



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 12 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- b. If the grievance manager determines that these reasons are not clear, concise, or valid for submission of an additional grievance, the grievance will be returned to the inmate without processing, noting the reason for the return.
- xi. Once an issue is grieved, the same issue may not be raised in future grievances at the same step in the grievance process, unless there is a new incident and new information is available about the issue. Repetitive grievances on an issue which has already been addressed will not be accepted or processed.
- xii. No staff member who appears to be directly involved in the matter, nor an immediate family member of that person, shall be assigned primary responsibility for investigation of a grievance appeal concerning that matter. Persons who appear to be directly involved may, however, be asked about the incident during the investigation or processing of the grievance or grievance appeal.

**2. Fixed Time Limits**

- i. All grievances and grievance appeals must be processed within the time limits fixed herein, unless a grievant agrees, in writing, to an extension of time for a fixed period, or unless the grievant has been notified in writing of an extension of time for a response.
- ii. All grievances shall be processed from initiation through final disposition as quickly as the circumstances and complexity of the issue/dispute permit. Generally, final disposition of the inmate grievance shall occur within one hundred eighty (180) days, inclusive of any extensions.
- iii. Failure of WDOC staff to respond by a time limit established by this policy and procedure at any stage of the process shall entitle the grievant, at the grievant's option, to move to the next stage of the process, unless the grievant has agreed, in writing, to an extension of the time for response or has been notified in writing of an extension of time for a response.
- iv. Failure of WDOC staff to respond by a time limit established by this policy and procedure, with or without written notification to the grievant, at any stage of the process shall not be grounds for the filing of a separate grievance.

**3. Accessibility to the Inmate Grievance Procedure**





<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 14 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- v. A dispute concerning an unprofessional behavior or action directed toward an inmate by a correctional employee, volunteer, or staff member;
  - vi. A dispute concerning the actions of another inmate toward the inmate who is filing the grievance;
  - vii. A dispute concerning any oversight or error affecting the inmate who is filing the grievance;
  - viii. A dispute concerning other incident(s) occurring within the correctional facility that directly and personally affected the inmate who is filing the grievance, including the loss or destruction of the inmate's approved personal property; and/or
  - ix. A dispute concerning action or threat(s) of action against an offender for good faith use of or good faith participation in the grievance procedure.
5. **Non-Grievable Issues.** The following issues cannot be grieved through the inmate grievance procedure:
- i. Any incident(s) or action(s) for which there exists a separate internal appeal or review process; for example, classification proceedings and decisions, including custody designation and facility and cell assignment;
  - ii. Misconduct reports, investigations leading to or arising from misconduct reports, or disciplinary hearings, findings and sanctions;
  - iii. Complaints relating to actions or decisions not within the jurisdiction of the WDOC (*e.g.*, decisions and procedures of the courts, the Board of Parole, or other non-WDOC agencies);
  - iv. Incident(s) or problem(s) to which the grieving inmate was not a party or which do not involve or affect the grievant personally;
  - v. Claims or issues that the inmate is pursuing in pending or ongoing litigation in state or federal courts;



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 15 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- vi. Actions taken against an inmate who has abused the inmate grievance process under guidelines of this policy and procedure; and/or
- vii. Errors or failure of staff to respond to inmate concerns or complaints within the timelines established by this policy and procedure alone shall not be grounds for a separate grievance.

**6. Available Remedies Under Inmate Grievance System**

- i. Requested remedies may be given in full, in part, or may be denied as a result of the grievance procedure.
- ii. Valid and justified grievances shall receive a meaningful remedy reasonably necessary to correct the problem complained of. As such, the grievance procedure shall afford a successful grievant a meaningful remedy to include, but not be limited to:
  - a. Modification of correctional facility policy or practice;
  - b. Restoration of or restitution for personal property;
  - c. The assurance that deprivation of necessary care or other abuse will not recur; and /or
  - d. Such other remedies that will meaningfully solve the problem presented, to include the discipline of or other corrective action for staff that willfully or unknowingly violate correctional facility policy.

**7. Reasoned, Written Responses to Inmate Grievances**

- i. Each inmate grievance shall be responded to in writing at each level of decision and review.
- ii. The response shall state the reasons for the decision reached and shall include a statement that the inmate is entitled to further review, if such is available, and shall contain simple directions for obtaining such review.

**8. Maintenance and Confidentiality of Grievance Records**

- i. Maintenance of Grievance Records





2. An inmate who seeks grievance review of an emergency situation as defined within this policy and procedure should submit his/her grievance to the grievance manager as soon as possible after the incident/occurrence that gave rise to the grievance so that it may be processed in a timely manner.
3. Emergency grievances shall be filed by the inmate using the standard WDOC Form #321, *Inmate Grievance Form*. If the inmate believes the grievance qualifies as an emergency grievance he/she shall mark “EMERGENCY” on the top front of the WDOC Form #321. The inmate may also place the grievance in a sealed envelope clearly marked as “EMERGENCY GRIEVANCE”. The grievance may then be placed into the secure designated receptacle in the correctional facility for pickup and processing by the grievance manager and/or his/her support staff. The inmate may also give the grievance to the unit supervisor for more immediate delivery.
4. The grievance manager will immediately refer any inmate grievance that appears to be of an emergency nature to the CEO of the correctional facility to which he/she is assigned. The correctional facility CEO will make a determination as to whether or not any particular grievance is to be treated as an emergency grievance.
5. The correctional facility CEO will determine whether or not a grievance is an emergency grievance within two (2) working days after receipt of the inmate grievance.
  - i. If the correctional facility CEO determines that the inmate grievance is to be treated as an emergency grievance, then the CEO shall provide written instruction to the grievance manager to investigate the grievance as an emergency grievance. Emergency grievances will be resolved and a written response provided to the grievant within three (3) working days from the receipt of the grievance.
  - ii. If the correctional facility CEO determines that a grievance is not an emergency, then the correctional facility CEO will provide written instruction to the grievance manager to process the inmate grievance as an ordinary grievance.
6. If an emergency grievance is of a nature that can only be decided by the Director, the correctional facility CEO shall, within three (3) working days of receipt of the grievance, refer it to the Director for resolution.



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 18 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

**G. Exceptions for Grievances Regarding Sexual Abuse. (PREANS 115.52)**

1. The agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.
2. The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.
3. The agency shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.
4. Nothing in this section shall restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.
5. An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and such grievance shall not be referred to a staff member who is the subject of the complaint.
6. The agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.
  - i. Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.
  - ii. The agency 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 agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.
  - iii. 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 at that level.
7. 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.
  - i. 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





<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 20 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- a. In cases where a court continues an inmate's civil rights action so that the inmate may exhaust administrative remedies pursuant to 42 USC 1997 (e), the thirty (30) day time limits may be extended by written notice of the CEO.
- iv. The inmate grievance (WDOC Form #321) must include the date and time and a brief summary of the attempts made to informally resolve the issue. The inmate grievance must also include a simple and straightforward summary of the incident or occurrence giving rise to the grievance or reason for the grievance and a requested grievance resolution or remedy.
- v. Completed inmate grievance forms (WDOC Form #321) should be placed into the secure designated receptacle in the correctional facility for pickup and processing by the grievance manager and/or his/her support staff. Alternatively, the inmate may give the grievance to the unit supervisor for delivery. Completed inmate grievance forms (WDOC Form #321) may also be placed into the outgoing mail addressed to the grievance manager.

## **2. Processing of Inmate Grievance Forms**

- i. If the WDOC Form #321, *Inmate Grievance Form*, is not received within thirty (30) calendar days of the date of the incident giving rise to the grievance, the grievance will not be accepted by the grievance manager and will be returned to the grievant with a statement of the same.
  - a. A grievance form retrieved by the grievance manager or designee from the designated secure receptacles on the first work day following a non-work day weekend or holiday shall be considered timely if the thirtieth (30<sup>th</sup>) calendar day fell on the non-work day weekend or holiday immediately preceding the work day on which it was received.
- ii. Upon receiving a timely-filed inmate grievance, the grievance manager will assign the grievance a sequential identifying number, unique to the correctional facility, that will be written on the face of the grievance form (WDOC Form #321) and record its receipt and assigned grievance number in an inmate grievance log.
  - a. The grievance log shall also record the nature of the grievance as well as the date and nature of final disposition of the grievance when completed.





<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 22 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- a. The grievance number assigned to the inmate grievance;
  - b. A summary of the issue being grieved;
  - c. A description of the kind of investigation which was conducted;
  - d. The factual findings;
  - e. Resolution of the issue by grant or denial of relief sought by the grievant, or other such relief as deemed appropriate;
  - f. The reasons for granting or denying relief; and
  - g. Notification to the inmate of his/her right to appeal the decision and simple directions on how to do so.
- viii.** The grievance documents submitted by the inmate with the initial grievance will be returned to the inmate along with the written response from the grievance manager.
- a. The inmate will be provided with the original and one (1) copy of the written grievance response. The original grievance documents are for the inmate's records and the copy is for use in furtherance of the grievance process should the inmate decide to do so.
- ix.** This written decision shall be forwarded to the grievant within ten (10) working days after receipt of WDOC Form #321, unless an extension has been granted to by the grievant or unless the grievant has been notified in writing of an extension of time for a response.

## **I. The Inmate Grievance Appeal Process**

- 1. How and When to File a Grievance Appeal to the Facility Warden/CEO (First Appeal)**
  - i.** After attempting to resolve a problem in accordance with the grievance process, a grievant may file a WDOC Form #322, *Inmate Grievance Appeal Form*, though the correctional facility grievance manager. Instructions on how to file WDOC Form #322 are printed on the reverse side of the form.





<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 24 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- v. It is the inmate’s burden to provide all currently known facts and information regarding the complaint, including pertinent dates; times; places; references to the inmate rules or department/correctional facility policy and procedure; documents; and other information which will fully explain the problem. However, additional evidence or information not included in the initial inmate grievance will not be considered, unless such evidence or information was unavailable or unknown at the time of the filing of the inmate grievance.
  
- vi. The grievance appeal form (WDOC Form #322) must be placed in a sealed envelope addressed to the grievance manager.
  - a. The envelope shall be clearly marked “INMATE GRIEVANCE APPEAL” and “CONFIDENTIAL” on the outside.
  
  - b. The envelope may be placed into the secure designated receptacle in the correctional facility for pickup and processing by the grievance manager and/or his/her support staff. Alternatively, the inmate may give the grievance appeal to the control center officer or other appropriate staff person for delivery to the grievance manager.
  
  - c. Any opening, diversion, destruction or other tampering with an envelope so marked, by any individual other than the CEO or his/her designee, shall be grounds for disciplinary action.

**2. Processing of Inmate Grievance Appeals to the Facility Warden/CEO**

- i. If the WDOC Form #322, *Inmate Grievance Appeal Form*, is not received by the grievance manager within seven (7) calendar days of the date the inmate grievance response was received by the inmate, the grievance appeal will not be accepted and will be returned to the grievant with a statement of same.
  - a. A grievance appeal form to the CEO retrieved from a designated secure receptacle on the first work day following a non-work day weekend or holiday shall be considered timely if the seventh (7<sup>th</sup>) calendar day fell on



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 25 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

the non-work day weekend or holiday immediately preceding the work day on which it was received.

- ii. Upon receiving a timely-filed WDOC Form #322, the grievance manager shall record the receipt of the grievance in the grievance log using the grievance tracking number and the notation "Appeal to CEO". The grievance log shall also record the nature of the grievance appeal and the date and nature of final disposition of the grievance appeal when completed.
- iii. After the inmate grievance appeal has been logged, the grievance manager will immediately refer the grievance appeal to the correctional facility CEO and will send a WDOC Form #331, *Inmate Grievance Receipt*, to the inmate, including the date of receipt and the number assigned thereto within three (3) working days of receipt of the grievance appeal form (WDOC Form #322).
- iv. The correctional facility CEO shall review the grievance appeal, and may assign correctional facility staff to further investigate the grievance, other than an individual who appears to be directly involved in the matter or an immediate family member of that individual. The correctional facility CEO or designee may consult with the grievant and others involved in the grievance, and may investigate any other sources of information which are indicated.
- v. After the problem has been thoroughly investigated, the correctional facility CEO will make the following determinations:
  - a. Whether or not the grievance appeal or underlying grievance appears to be frivolous or malicious; and
  - b. Whether or not there is a factual or legal basis for remedial action; and
  - c. What remedial action, if any, will be granted.
  - d. The CEO may also determine whether or not a meeting or further investigation is needed to develop further facts prior to making determinations regarding resolution of the inmate grievance appeal.
- vi. After making the required determinations regarding resolution of the inmate grievance appeal, the correctional facility CEO will



WYOMING DEPARTMENT OF CORRECTIONS	Policy and Procedure #3.100	Page 26 of 33
		Inmate Communication and Grievance Procedure

give the grievant a written grievance appeal response containing the decision made and the reason(s) for the decision.

- vii. Elements included in the written response from the correctional facility CEO may or may not include:
  - a. Restatement of the issue: A brief restatement of the major issue or complaint of the grievant, including the factual issue presented by the inmate, as well as the requested remedy;
  - b. Description of the kind of investigation which was conducted: A brief summary of the effort which was expended to determine facts relative to the complaint;
    - (1) If investigation is not necessary because the facts are known, the staff response leaves no unresolved questions, or the grievance is clearly frivolous or without merit, it should be so stated.
  - c. Factual findings: A clear statement of the pertinent facts developed by the correctional facility CEO or grievance manager or obtained from supporting documentation;
  - d. Resolution and statement of the basis for the action that is taken: A clear statement of the relief to be provided, or, as appropriate, denial of relief, accompanied by the factual and/or legal/administrative basis for the decision.
- viii. The written response from the correctional facility CEO shall include a statement that the offender is entitled to further review and shall contain simple directions for obtaining such review by the Director through an Inmate Grievance Appeal filed within ten (10) calendar days of receiving the CEO's grievance appeal response.
- ix. The written response from the correctional facility CEO may:
  - a. Deny the requested remedy;
  - b. Grant the requested remedy, in full or part;
  - c. Grant a remedy other than that which was requested; or







<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 29 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- a. Alternatively, the inmate may give the grievance appeal to the correctional facility grievance manager, who will forward it to the Director.

**4. Processing of Inmate Grievance Appeals to the Director**

- i. The Director or the Director’s designee shall acknowledge receipt of the grievance appeal in writing to the grievant within three (3) working days of receipt.
- ii. Receipt of the grievance appeal will be entered into a log of grievance appeals, which shall record the date of receipt, grievance number, nature of grievance and date and nature of disposition of the appeal.
- iii. The Director or designee shall review all material regarding the initial grievance, the grievance appeal to the CEO, and the grievance appeal to the Director.
  - a. The Director or designee may make a further independent investigation or inquiry into the matter as a matter of discretion, but is not required to do so.
  - b. It is in the offender’s best interest to present as much pertinent evidentiary material as possible to the Director.
  - c. Additional evidence not presented as part of the initial grievance and initial grievance appeal process will not be considered.
- iv. If the Director determines that additional facts should have been gathered or additional witnesses interviewed, the grievance appeal may be referred for further investigation prior to further review.
- v. After the Director’s review, if it is determined the grievance appeal should be remanded for response at the correctional facility level, the grievance appeal will be forwarded to the correctional facility CEO with direction for resolution.
  - a. If a grievance appeal is remanded to the correctional facility CEO, the correctional facility CEO will be given a fifteen (15) calendar day time limit to provide a written response to the grievance appeal.



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 30 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

- b. Notification of the decision to remand the grievance appeal to the correctional facility CEO will be provided by the Director or designee to the grievant and the correctional facility CEO within three (3) working days of receipt of the grievance appeal to the Director.
- c. If a grievance appeal is remanded to the correctional facility CEO, the correctional facility CEO shall provide a written response to the grievant with a copy to the Director.
- d. If the grievant is dissatisfied with the correctional facility CEO's response, he/she may then file a grievance appeal to the Director within ten (10) calendar days of receipt of the correctional facility CEO's decision.
- e. The grievance appeal must not be frivolous or malicious and must state the grievant's reasons for appeal and disagreement with the correctional facility CEO's second grievance appeal ruling.
- vi. If the appeal is not remanded and any additional investigation deemed necessary has been completed, the Director will then either find basis for the grievance appeal and direct the correctional facility CEO to take appropriate remedial action, or affirm the correctional facility CEO's decision within thirty (30) calendar days after receipt of the grievance appeal.
- vii. The grievance documents submitted with the second level appeal to the Director will not be returned to the inmate.
- viii. A written decision to both the correctional facility CEO and the grievant will be provided by the Director or designee within thirty (30) calendar days of receipt of the grievance appeal stating the reasons for the grievance appeal decision.
- ix. In cases of emergency grievances, the Director shall dispose of the grievance appeal within ten (10) calendar days.
- x. The Director's decision on an inmate grievance appeal is FINAL, and is not subject to further review.

**J. Abuse of the Inmate Grievance Procedure**



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 31 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

1. Any grievance which the inmate knows or reasonably should know is without merit, is irresponsible, or has no basis in fact or law and is written in bad faith, or any grievance in which the inmate willfully falsifies information with the intent to vex, annoy, slander, or injure staff, inmates or any other person, shall be considered an abuse of the grievance system.
2. Filing of a malicious or frivolous grievance constitutes an abuse of the inmate grievance procedure and may subject the offender to limitations on use of the inmate grievance procedure.
3. Additionally, the knowing submission of false or malicious information in an inmate grievance may result in disciplinary action under the Code of Inmate Discipline.
4. If an inmate grievance appears to the grievance manager to be frivolous or malicious, contains vulgar language, appears to contain false information, or is a submission in excess of the three (3) grievances in any one week or eight (8) grievances in any calendar month permitted, a notation to that effect will be included in the grievance manager's written response to the grievant. A copy of the grievance manager's written response to this effect will also be sent to the correctional facility CEO.
5. If an inmate grievance or grievance appeal appears to the correctional facility CEO to be frivolous or malicious, or the inmate continues to file an excessive number of grievances after being warned that doing so could constitute abuse of the inmate grievance procedure, the correctional facility CEO may appoint an uninvolved correctional employee to thoroughly investigate the allegations of the inmate grievance, compile a record of all relevant evidence, including sworn statements of the grievant and other involved individuals if such will be helpful in making a determination. A report of the evidence will be submitted to the Director.
6. If the Director finds substantial evidence that the offender has abused the inmate grievance procedure by filing malicious or frivolous grievances, or by repeatedly filing an excessive number of grievances, the Director will take the following actions:
  - i. On the first offense, the Director will caution the offender that further violations may result in a limitation or modification of their grievance access;
  - ii. On the second offense, the Director may modify the inmate's access to the inmate grievance procedure; and



WYOMING DEPARTMENT OF CORRECTIONS	Policy and Procedure #3.100	Page 32 of 33
		Inmate Communication and Grievance Procedure

- iii. If the conduct is repeated, the Director may limit the inmate's access to the inmate grievance procedure for a fixed period of time.
- 7. An offender's access to the inmate grievance procedure for the purpose of filing of emergency grievances may not be modified or limited under this section.

**K. Periodic Review of the Inmate Grievance Procedure**

1. CEOs shall post permanent notices (using WDOC Form #324.1, *Notice for Permanent Posting – Inmate Grievance*) on inmate and employee bulletin boards inviting comments on the effectiveness and credibility of the inmate grievance procedure.
  - i. Inmates and correctional facility employees are invited and encouraged to submit written comments regarding the effectiveness and credibility of the inmate grievance procedure at any time.
  - ii. Comments regarding the inmate grievance procedure may be submitted to the CEO or to the Director and shall be reviewed thereby as part of the regular evaluation of the procedure.
2. On the first anniversary date of the effective date of this inmate grievance procedure, and every year thereafter, the Director or his/her designee shall investigate, review and evaluate the effectiveness and credibility of the inmate grievance procedure.
3. Materials to be considered during the periodic review of the inmate grievance procedure include, but are not limited to:
  - i. Review of a representative sample of documents related to the individual filing and disposition of grievances at each institution and appeals thereof in the previous year;
  - ii. Review of any comments submitted by inmates and/or employees in the previous year; and
  - iii. Review of aggregate quarterly reports prepared by correctional facilities regarding the numbers, types and dispositions of grievances in the previous year.



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #3.100</b>	<b>Page 33 of 33</b>
		<b>Inmate Communication and Grievance Procedure</b>

**V. TRAINING POINTS**

- A.** At what level should inmates first seek to resolve issues/disputes with staff?
- B.** What are the steps in the inmate communication continuum?
- C.** Staff shall make every effort to respond to an inmate communication within (how many) working days of receipt.
- D.** How long does an inmate have to file an inmate grievance appeal to the facility Warden/CEO?
- E.** Who does an inmate file an inmate grievance appeal to if he/she is unsatisfied with the response from his/her appeal to the CEO/Warden?
- F.** What is the maximum number of inmate grievances an inmate can file in a week's time? A month?
- G.** Who can modify or limit an inmate's access to the inmate grievance review process due to abuse of the system by the inmate?