

**CHAPTER 33-103
INMATE GRIEVANCE PROCEDURE**

- 33-103.001 Inmate Grievances – General Policy
- 33-103.002 Inmate Grievances – Terminology and Definitions
- 33-103.003 Inmate Grievances – Training Requirements
- 33-103.004 Inmate Grievances – Staff and Inmate Participation
- 33-103.005 Informal Grievance
- 33-103.006 Formal Grievance – Institution or Facility Level
- 33-103.007 Appeals and Direct Grievances to the Office of the Secretary
- 33-103.008 Grievances of Medical Nature
- 33-103.009 Grievance Relating to Admissible Reading Material
- 33-103.010 Grievances Regarding Lost Personal Property
- 33-103.011 Time Frames for Inmate Grievances
- 33-103.012 Grievance Records
- 33-103.013 Classification of Grievance
- 33-103.014 Reasons for Return of Grievance or Appeal Without Processing
- 33-103.015 Inmate Grievances – Miscellaneous Provisions
- 33-103.016 Follow Through on Approved Grievances
- 33-103.017 Inmate Grievances – Reprisal
- 33-103.018 Evaluation of the Grievance Procedure
- 33-103.019 Inmate Grievances – Forms (Repealed)

33-103.001 Inmate Grievances – General Policy.

(1) The purpose of the grievance procedure is to provide an inmate with a channel for the administrative settlement of a grievance. In addition to providing the inmate with the opportunity of having a grievance heard and considered, this procedure will assist the department by providing additional means for internal resolution of problems and improving lines of communication. This procedure will also provide a written record in the event of subsequent judicial or administrative review. The inmate grievance procedure was fully certified by the United States Department of Justice in March, 1992, pursuant to the requirements of Sections 944.09 and 944.331, F.S.

(2) Each inmate shall be entitled to invoke the grievance procedure regardless of any disciplinary, classification or other administrative action or legislative decision to which the inmate may be subject. Each institution shall ensure that the grievance mechanism is accessible to inmates who have disabilities. This may be accomplished by providing assistance through the institution library if requested.

(3) Inmates can file complaints regarding the following matters:

- (a) The substance, interpretation, and application of rules and procedures of the department that affect them personally;
- (b) The interpretation and application of state and federal laws and regulations that affect them personally;
- (c) Reprisals against inmates for filing a complaint or appeal under the inmate grievance procedure, or for participating in an inmate grievance proceeding;
- (d) Incidents occurring within the institution that affect them personally;
- (e) Conditions of care or supervision within the authority of the Florida Department of Corrections, except as noted herein.

(4) Inmates cannot file complaints regarding the following matters:

- (a) The substance of State and federal court decisions;
- (b) The substance of State and federal laws and regulations;
- (c) Parole decisions;
- (d) Other matters beyond the control of the department.

(5) Staff in the Bureau of Policy Management and Inmate Appeals shall have unlimited access to information required to respond to inmate grievances and appeals. All department employees are required to cooperate with staff in the inmate grievance office by providing accurate and timely information.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.001, Amended 10-11-00, 10-28-07, 5-27-12.

33-103.002 Inmate Grievances – Terminology and Definitions.

The following terms, as defined, shall be standard usage throughout the department:

- (1) Amendment: Where used herein, refers to an addition or change to a previously filed grievance.
- (2) Bureau of Policy Management and Inmate Appeals: The bureau authorized by the Secretary to receive, review, investigate, evaluate, and respond to grievance appeals and direct grievances as defined in subsection (7). The Bureau of Policy Management and Inmate Appeals is located in the Office of the General Counsel and is managed by the Chief of Policy Management and Inmate Appeals.
- (3) Complainant: The inmate filing the grievance.
- (4) Emergency Grievance: A grievance of those matters which, if disposed of according to the regular time frames, would subject the inmate to substantial risk of personal injury or cause other serious and irreparable harm to the inmate.
- (5) Formal Grievance: A statement of complaint filed at the institutional or facility level with the warden, assistant warden, or deputy warden, through the use of Form DC1-303, Request for Administrative Remedy or Appeal. Formal grievances are addressed in Rule 33-103.006, F.A.C. The effective date of the form is 2-9-05.
- (6) Grievance: A written complaint or petition, either informal or formal, by an inmate concerning an incident or condition within an institution, facility, or the Department which affects the inmate complainant personally.
- (7) Grievance Appeal or Direct Grievance: A statement of complaint filed with the Secretary of the Department of Corrections through the use of Form DC1-303, Request for Administrative Remedy or Appeal. Appeals and direct grievances are addressed in Rule 33-103.007, F.A.C.
- (8) Grievance Coordinator: The institutional staff member designated by the warden or the Chief of the Bureau of Policy Management and Inmate Appeals to receive, review, investigate, evaluate, and respond to inmate grievances at an institution or facility.
- (9) Grievance of Reprisal: A grievance submitted by an inmate alleging that staff have taken or are threatening to take retaliatory action against the inmate for good faith participation in the inmate grievance procedure.
- (10) Grievance of Sentence Structure (Release Date Calculations): Complaints concerning the manner in which the Department records and executes the judgment and sentence of the court. This category of appeal involves the calculation of the release date but does not include the determination of monthly gain time awards. Included are questions relating to the length of sentence, whether the court imposed mandatory or special sentencing provisions, credit for time served, date of imposition of sentence, sentence chaining (concurrent or consecutive), and forfeitures arising from judicial or Parole Commission revocations (not forfeitures through the administrative disciplinary process).
- (11) HIPAA: The Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (12) Informal Grievance: An initial statement of complaint filed on a Form DC6-236, Inmate Request. Form DC6-236 is incorporated by reference in Rule 33-103.005, F.A.C. The effective date of the form is 6-12.
- (13) Literature Review Committee: The final reviewing authority for appeals regarding rejected reading material. The committee is composed of the Bureau Chief of Security Operations or his or her representative, the Bureau Chief of Policy Management and Inmate Appeals or his or her representative, and the Library Services Administrator or his or her representative.
- (14) Recipient: A person or office receiving an inmate grievance for processing.
- (15) Reviewing Authority: A staff member authorized to sign grievances or appeals as the final authority for review, e.g., warden, assistant warden, deputy warden, or the Secretary's representative.
 - (a) Informal Grievance:
Staff member designated by the warden.
 - (b) Formal Grievance:
 1. Major Institutions – warden or assistant warden;
 2. Private Correctional Facilities – warden or deputy warden;
 3. Road Prisons, Vocational Centers, Work Camps, Community Correctional Centers, and Contract Community Facilities – warden or assistant warden of the supervising institution.
 - (c) Grievance Appeals: Chief of Policy Management and Inmate Appeals inmate grievance administrator, or correctional services administrator designated by the Secretary to serve as his representative.
 - (d) Direct grievances:
 1. A direct grievance which is to be reviewed by the warden: The warden is authorized to designate the assistant warden or

deputy warden (deputy warden applicable to private facilities only) to grant and implement relief as approved by the warden, except as to grievances involving discipline, grievances alleging violation of the Americans with Disabilities Act, grievances challenging placement in close management and subsequent reviews, grievances of an emergency nature, or grievances of reprisal.

2. A direct grievance which is to be reviewed by the Bureau of Policy Management and Inmate Appeals: The Bureau Chief, or other designated staff may serve as the Secretary's representative in responding to these issues.

(16) Response: The information provided to the inmate relative to the decision to approve, deny, or return the grievance and the reasons for the approval, denial, or return.

(17) Sexual Abuse.

(a) Any unwanted or coerced act by an inmate against another inmate, without the inmate's consent, including any of the following:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and
4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, excluding contact incidental to a physical altercation;

(b) Any of the following acts perpetrated by a staff member, contractor, or volunteer against an inmate, with or without consent of the inmate:

1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
2. Contact between the mouth and the penis, vulva, or anus;
3. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
5. Any other intentional contact, either directly or through the clothing, or with the genitalia, anus, groin, breast, inner thigh or buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
6. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in the above paragraphs 1. – 5. of this subsection;
7. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, and
8. Voyeurism by a staff member, contractor, or volunteer.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.002, Amended 10-11-00, 1-2-03, 9-16-03, 2-9-05, 3-25-08, 5-27-12, 11-7-12, 11-24-13.

33-103.003 Inmate Grievances – Training Requirements.

(1) Staff Training. The Bureau of Policy Management and Inmate Appeals shall develop a standardized plan to be implemented by the Bureau of Staff Development in order to train staff in the use of the inmate grievance procedure. The training shall be designed to familiarize staff with the provisions of Chapter 33-103, F.A.C., and the standardized forms utilized in the grievance procedure.

(a) This training shall be provided to all new institutional and community facility employees in conjunction with the institution's and community facility's new employee orientation program.

(b) This training shall also be provided annually for all institutional and community facility staff who respond to inmate grievances.

(c) The provision of training shall be documented on Form DC2-901, Training Attendance Report. Form DC2-901 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-0250. <http://www.flrules.org/Gateway/reference.asp?No=Ref-01220>. The effective date of the form is 6-18-07.

(2) Inmate Orientation. Through the use of a standardized lesson plan, inmates will receive training in the use of the inmate grievance procedure by institution or facility staff. Inmates shall sign a statement acknowledging receipt of training on the inmate

grievance procedure. A copy of this statement shall be placed in the inmate file. Form DC1-307, Acknowledgement of Receipt of Grievance Orientation, shall be used for this purpose. Form DC1-307 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. <http://www.flrules.org/gateway/reference.asp?No=Ref-01221>. The effective date of the form is 10-11-00.

(a) All incoming inmates shall receive training in the grievance procedure at the institutions that are designated for reception and orientation.

(b) When inmates are transferred from one institution or facility to another, they shall receive training in the inmate grievance procedure as part of their orientation at the new location.

(c) The orientation program shall include the following:

1. Receipt of written notification of the grievance procedure;
2. Availability of the written procedure in any language spoken by a significant proportion of the institution's population, and appropriate provisions for those speaking other languages and for the impaired and disabled;
3. Participation in orientation in which the grievance procedure is explained and in which there is an opportunity to ask questions and have them answered orally; and
4. Provisions for the impaired and disabled to participate in an orientation program.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 4-10-95, 12-7-97, Formerly 33-29.003, Amended 8-1-00, 10-11-00, 2-13-03, 10-9-05, 5-27-12.

33-103.004 Inmate Grievances – Staff and Inmate Participation.

(1) Inmate and employee participation in the grievance process will take the form of solicitation of written comments by inmates and employees on selected formal inmate grievances that staff determine will significantly impact the inmate population and which challenge general procedures and practices prior to the initial adjudication of the grievance. Each institution shall within 5 calendar days of receipt, post copies of this type of formal grievance on inmate and employee bulletin boards, circulate among all inmates in all disciplinary, administrative, and close management areas, including all inmates under sentence of death. These grievances shall be posted and circulated without identification of individual names or identifying facts. Written comments must be received in the office of the reviewing authority as defined in Rule 33-103.002, F.A.C., within 5 calendar days from the date of posting in order to receive consideration. With the exception of submitting written comments, no inmate or employee who appears to be involved in the matter shall participate in any capacity in the final resolution of a grievance.

(2) Inmates and employees have the opportunity to review the effectiveness and credibility of the department's grievance procedure through the submission of written comments to the reviewing authority as defined in Rule 33-103.002, F.A.C. The reviewing authority shall review and respond to written comments received and institute procedural changes as appropriate. Comments received relating to this rule that are outside the decision making authority of the reviewing authority as defined in Rule 33-103.002, F.A.C., shall be forwarded to the Office of the General Counsel for review and appropriate action. If the comments or complaint focuses on the implementation of the rule at a particular institution, the reviewing authority as defined in Rule 33-103.002, F.A.C., has the authority to make necessary changes in this implementation consistent with the rule. If the comments or complaint deal with the content of the rule itself and the only way a change could be effected would be to change the rule, then it needs to be forwarded to the Office of the General Counsel. The Office of the General Counsel shall review the complaint to see if there appears to be a problem with the rule itself. If changes are necessary, the Office of the General Counsel coordinates the rule promulgation process. The warden shall receive a response and in turn advise the employee or inmate.

(3) Employees shall have access to this rule through rule books maintained in the departments within the institution to which they are assigned.

(4) Inmates shall have access to this rule from the inmate library. Inmates who are not in open population shall be able to access this rule through their housing officer in the confinement unit. Inmates in institutions or facilities without libraries shall have access to this rule from the classification office or security shift supervisor's office.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 4-10-95, 12-7-97, Formerly 33-29.004, Amended 10-11-00, 2-9-05, 3-25-08, 5-27-12.

33-103.005 Informal Grievance.

(1) Inmates shall utilize the informal grievance process prior to initiating a formal grievance. Inmates may skip this step and initiate the process at the formal institutional level for issues pertaining to the following: grievance of an emergency nature, grievance of reprisal, grievance alleging violations of the Americans with Disabilities Act, medical grievance, grievance involving gain time governed by Rule 33-601.101, F.A.C. Incentive Gain Time, grievance challenging placement in close management or subsequent reviews, grievances regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C., grievances regarding disciplinary action (does not include corrective consultations) governed by Rules 33-601.301-.314, F.A.C., and grievances regarding allegations of sexual abuse as defined in subsection 33-103.002(17), F.A.C. Inmates may proceed directly to the Office of the Secretary on the following issues as governed by subsection 33-103.007(6), F.A.C.: grievance of emergency nature, grievance of reprisal, protective management, admissible reading material, sentence structure issues (release date calculations), and inmate banking issues. Grievances alleging a violation of the Health Insurance Portability and Accountability Act (HIPAA) must be filed directly with the Office of the Secretary using the Request for Administrative Appeal, Form DC1-303, Request for Administrative Remedy or Appeal. Form DC1-303 is incorporated by reference in Rule 33-103.006, F.A.C.

(a) An informal grievance shall be submitted to the designated staff by placing the informal grievance in a locked grievance box. Locked boxes shall be available to inmates in open population and special housing units. A staff person from classification, the grievance coordinator's office, or the assistant warden's office shall be responsible for the key. If the staff member collecting the grievances is from classification or the assistant warden's office, he or she shall retrieve the grievances and appeals and deliver them to the institutional grievance coordinator in a locked container. The warden shall designate one (1) staff member who shall log all informal grievances and distribute to the appropriate department or staff.

(b) After being logged, informal grievances shall be forwarded to the staff member who is responsible in the particular area of the problem, the classification team, the appropriate section head, or other institutional staff. When an informal grievance is received by the reviewing authority as defined in Rule 33-103.002, F.A.C., the reviewing authority shall respond to the grievance or refer the grievance to a staff member for response.

(c) The inmate shall not file duplicate informal grievances with different staff members.

(2) When submitting an informal grievance, the inmate shall use Form DC6-236, Inmate Request, and shall:

(a) Check the appropriate box indicating to whom he is submitting the informal grievance. If the inmate checks the box designated "other," and elects to name a specific staff member, the final determination of the appropriate person to handle the grievance shall ultimately be made by staff. The inmate shall complete the other sections of the heading;

(b) On the line reading "Request," the inmate shall check the box to indicate that Form DC6-236 is being used as an "Informal Grievance". Failure to do this will cause the request to be handled routinely and it will not be considered an informal grievance. This will also cause the form to be unacceptable as documentation of having met the informal step if it is attached to a formal grievance submitted at the next step.

1. The act of asking questions or seeking information, guidance, or assistance is not considered to be a grievance. Answers to inmate requests of this nature shall not be considered as documentation of having met the informal step if they are attached to a formal grievance submitted at the next step. Inmate requests improperly submitted as informal grievances shall be treated as inmate requests and the inmate shall be advised that he cannot appeal the response.

2. When completing the inmate request form for submission as an informal grievance, the inmate shall ensure that the form is legible, that included facts are accurately stated, and that only one issue or complaint is addressed. The inmate must limit all grievance narrative to Form DC6-236, and only two additional pages of narrative will be allowed. The inmate shall sign and date the form and write in his Department of Corrections number and forward the informal grievance to the designated staff person. If an inmate fails to sign his grievance, it shall result in a delay in addressing the grievance until it can be verified that it is that inmate's grievance. Form DC6-236 is incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. <https://www.flrules.org/gateway/reference.asp?NO=Ref-01222>. The effective date of the form is 6-12.

(3) Upon receipt of the informal grievance, the recipient shall note the date on the form.

(4) The informal grievance shall be responded to within 10 days of the initial receipt date as noted on the informal grievance log.

(a) The recipient shall provide the inmate with a written response even if an interview with the inmate has occurred concerning the subject matter of the grievance. This is required due to the fact that if the inmate desires to pursue his grievance at the next level,

except in cases previously noted, he is required to attach a copy of his informal grievance and response.

(b) The recipient shall state that the grievance is either approved, denied, or returned without action. The response shall also state the reason or reasons for the approval, denial, or return.

(c) The recipient shall then sign and date the form and cause the informal grievance to be returned to the inmate. The inmate shall receive the original and one copy of the informal grievance. The second copy shall be forwarded to the correctional sentence specialist for placement in the inmate's file.

(5) It is the policy of the department that all inmate request forms be answered.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History--New 10-12-89, Amended 1-15-92, 12-22-92, 3-30-94, 4-17-94, 4-10-95, 8-10-97, 12-7-97, 2-17-99, Formerly 33-29.005, Amended 8-1-00, 2-9-05, 3-25-08, 1-31-10, 5-27-12, 11-7-12, 11-24-13.

33-103.006 Formal Grievance – Institution or Facility Level.

(1) When an inmate decides to file a formal grievance, he or she shall do so by completing Form DC1-303, Request for Administrative Remedy or Appeal, and filing within the time limits set forth in Rule 33-103.011, F.A.C. Form DC1-303 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. <http://www.flrules.org/Gateway/reference.asp?No=Ref-03315>. The effective date of the form is 11-13.

(a) In institutions and private correctional facilities, inmates shall direct this form to the warden or assistant warden or deputy warden as defined in paragraph 33-103.002(14)(b), F.A.C.

(b) In road prisons, vocational centers, work camps, community correctional centers and contract facilities the form shall be sent to the warden or assistant warden of the supervising institution.

(2) Procedural Requirements.

(a) The inmate shall fill out the identifying data at the top of the form, printing his committed name, Department of Corrections number, institution or facility name and checking the appropriate box.

(b) The inmate shall sign and date the form, indicating his Department of Corrections number. If the inmate fails to sign the grievance, it shall result in a delay in addressing the grievance until it can be verified that it is that inmate's grievance.

(c) The inmate shall state his grievance in Part A. If additional space is needed, the inmate shall use attachments rather than multiple copies of Form DC1-303. Only 2 additional pages of narrative will be allowed. If the inmate writes his complaint anywhere other than within the boundaries of Part A or on the 2 allowable attachment pages, his grievance shall be returned for non-compliance.

(d) The form must be legible and the grievance clearly stated.

(e) Included facts must be accurately stated.

(f) Each grievance must address only one issue or complaint.

(g) The inmate shall attach a copy of the informal grievance and the response to the informal grievance to Form DC1-303, unless the grievance is a direct formal grievance of the following: an emergency grievance; a grievance of reprisal; a medical grievance; a grievance alleging violation of the Americans with Disabilities Act; a grievance involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time; a grievance challenging placement in close management and subsequent reviews; a grievance regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C.; or a grievance of disciplinary action (excluding corrective consultations). Any other pertinent documentation shall be attached also. Informal grievances as described in subparagraph 33-103.005(2)(b)1., F.A.C., shall not be accepted as documentation of having met the requirements of the informal grievance step.

(h) The inmate shall submit the grievance or appeal to designated staff by placing the grievance or appeal in a locked grievance box. Locked boxes shall be available to inmates in open population and special housing units. A staff person from classification, the grievance coordinator's office, or the assistant warden's office shall be responsible for the key. If the staff member collecting the grievances is from classification or the assistant warden's office, he or she shall retrieve the grievances and appeals and deliver them in a locked container to the institutional grievance coordinator. The institutional grievance coordinator shall log all formal grievances and provide the inmates with receipts. The appeals will be forwarded to the Bureau of Policy Management and Inmate Appeals after being processed for mailing in accordance with paragraphs 33-103.006(8)(b) and (c), F.A.C. The Bureau of Policy Management and Inmate Appeals shall log all appeals and forward receipts to the inmates. Grievances and appeals shall be picked up and forwarded by the institutions daily Monday through Friday.

(i) If the inmate is filing an amendment to a previously filed grievance or appeal, the inmate shall clearly state this at the beginning of PART A of Form DC1-303, Request for Administrative Remedy or Appeal. Amendments are to be filed only regarding issues unknown or unavailable to the inmate at the time of filing the original grievance and must be submitted within a reasonable time frame of knowledge of the new information.

(j) If the inmate or third party is filing a grievance involving sexual abuse, it shall be clearly stated in the first line of the grievance that it is a grievance related to sexual abuse. Also on Form DC1-303 the third party filer shall check the box next to Third Party Grievance Alleging Sexual Abuse. If this statement is not included in the grievance and if the third party box is not checked, the grievance shall be responded to. This will not be a reason to return the grievance without action to the filer.

(3) The following types of grievances may be filed directly with the reviewing authority as defined in subsection 33-103.002(15), F.A.C., by-passing the informal grievance step, and may be sent in a sealed envelope through routine institutional mail channels:

(a) Emergency Grievance – Upon receipt, the reviewing authority as defined in paragraph 33-103.002(14)(b), F.A.C., shall take the following action as soon as possible, but no later than two calendar days following receipt:

1. Review complaint and contact staff for additional information if necessary;
2. If an emergency is found to exist, initiate action to alleviate condition giving rise to the emergency;
3. Provide formal response to the inmate within 15 calendar days as required by paragraph 33-103.011(3)(d), F.A.C.; and
4. If an emergency is not found to exist, a response will be provided to the inmate indicating that the complaint is “not an emergency” with instructions to resubmit at the proper level, signed and dated by the responding employee, and returned to the inmate within 72 hours of receipt.

(b) Grievance of Disciplinary Action – If additional mitigating factors not presented during the disciplinary hearing are provided, a review shall be conducted and applicable modifications made, if necessary.

(c) Grievance of Reprisal.

(d) Grievances involving inmate bank issues.

(e) Medical Grievance.

(f) Grievance involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time.

(g) Grievance challenging placement in close management or subsequent review.

(h) Grievance alleging violation of the Americans with Disabilities Act.

(i) Grievance regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C.

(j) Grievances alleging sexual abuse as defined in subsection 33-103.002(17), F.A.C.

1. If an inmate believes he or she is the victim of sexual abuse they should immediately report it. There are several ways that allegations of sexual abuse may be reported, filing a grievance is one of those ways. If an inmate decides to use the grievance process to report sexual abuse they must complete form DC1-303, Request for Administrative Remedy or Appeal and file within the requirements and guidelines listed below. This rule is established to meet the requirements of the Prison Rape Elimination Act (PREA) of 2003. 28 CFR Part 115.

a. The grievance should begin at the formal level at the institution unless filing pursuant to paragraph 33-103.007(6)(a), F.A.C., or subparagraph 33-103.007(6)(b)5., F.A.C. There is no time limit on when an inmate or third party may initiate a grievance regarding allegations of sexual abuse. However, normal time limits as described in Rule 33-103.011, F.A.C., will apply when the inmate receives the response to the formal grievance and elects to proceed to the next level of review. Staff shall comply with response time requirements outlined in Rule 33-103.011, F.A.C.

b. Inmates filing grievances alleging sexual abuse shall not be instructed to file the grievance to the individual(s) who are the subject(s) of the complaint. Additionally grievances of this nature shall not be referred to the subject(s) of the complaint.

c. Third parties, including fellow inmates, staff members, family members, attorneys and outside advocates, shall be permitted to assist inmates in filing grievances alleging sexual abuse. Third parties are also permitted to file such grievances on behalf of inmates.

d. Third parties must use the official Form DC1-303 which can be obtained from subsection (1) of this rule. The form may also be requested from the inmate’s current location or the Department’s Central Office at 501 South Calhoun Street, Tallahassee FL 32399. On Form DC1-303 the third party filer shall check the box next to Third Party Grievance Alleging Sexual Abuse. Additionally when a third party files a sexual abuse grievance they must complete the information that identifies the inmate on the top of the form and place their signature and the date at the bottom of the form. When completed, a third party filer who is not an

inmate, shall mail the form to the attention of the warden at the institution where the inmate is currently housed unless the grievance is filed pursuant to paragraph 33-103.007(6)(a), F.A.C. When the third party filer is an inmate, the grievance shall be submitted pursuant to subsections (8) or (9) of this rule.

e. When third parties initiate a sexual abuse grievance, the inmate will be notified by institutional staff. A staff member shall interview the inmate within 2 business days of receipt of the third party grievance alleging sexual abuse. During this interview the inmate shall elect to allow the grievance to proceed or request that the grievance be stopped by completing the top half of Form DC6-236, Inmate Request, stating whether he elects for the grievance to proceed or be stopped. The institution shall document the inmate's desire to either allow or refuse the grievance to proceed under the response section of Form DC6-236. Form DC6-236 is incorporated by reference in Rule 33-103.005, F.A.C. A copy of the Inmate Request will be placed in the inmate's file. If the inmate refuses to allow the grievance to proceed on their behalf staff will also document the refusal in IGLOGS and designate the grievance as "withdrawn". IGLOGS is the Inspector General Office Log System (Database) that is utilized to store and maintain log numbers, dates, responses, dispositions and other relevant data on all inmate formal grievances and appeals.

f. If the inmate agrees to let the grievance filed by a third party proceed, staff shall log the third party grievance alleging sexual abuse and provide a receipt to the inmate. The response will be provided to the inmate. If the inmate is unsatisfied with the response to the formal grievance they may file an appeal on Form DC1-303. The third party who initiated the formal grievance cannot appeal the decision when it is rendered. Staff shall notify the third party filer of the disposition rendered on the grievance. In accordance with the Health Insurance Portability and Accountability Act, specifics of the case shall not be divulged to the third party.

g. The Department shall 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 due to the need for additional investigation. The inmate shall be notified in writing of the extension and a date by which a decision will be made.

h. An inmate may file an emergency grievance if they believe they are subject to a substantial risk of imminent sexual abuse.

i. When receiving an emergency grievance from an inmate expressing belief they are subject to a substantial risk of imminent sexual abuse the institution must take immediate corrective action. Staff handling this grievance shall provide an immediate response within 48 hours and shall issue a final decision within 5 calendar days from the receipt of the grievance. The final decision will document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(4) Inmates filing the types of grievances identified in paragraphs (3)(a), (c) and (d) above shall clearly state their reasons for by-passing the informal grievance step and shall state at the beginning of Part A of Form DC1-303, Request for Administrative Remedy or Appeal, the subject of the grievance. Failure to do so and failure to justify filing directly shall result in the formal grievance being returned without action to the inmate with the reasons for the return specified.

(5) Upon receipt of the formal grievance, the recipient [reviewing authority as defined in paragraph 33-103.002(14)(b), F.A.C.] shall cause the following to occur:

- (a) The grievance and related attachments shall be examined for compliance with Chapter 33-103, F.A.C.;
- (b) A computer generated receipt or Part C, receipt section of the grievance, shall be completed and returned to the inmate;
- (c) The subject matter of the grievance, shall be indicated on the receipt according to the classification of grievances, Rule 33-103.013, F.A.C.;
- (d) A formal grievance may be returned to the inmate for any one or more of the reasons stated in Rule 33-103.014, F.A.C., with no further processing.

(6) Following investigation and evaluation by the reviewing authority as defined in paragraph 33-103.002(14)(b), F.A.C., a response shall be provided to the inmate within 20 calendar days of receipt of the grievance as required by paragraph 33-103.011(3)(b), F.A.C. The degree of investigation is determined by the complexity of the issue and the content of the grievance. The response shall state whether the grievance is approved, denied, or being returned and shall also state the reasons for the approval, denial or return.

(a) The original grievance and one copy shall be returned to the inmate, with the request for interview form (informal grievance) attached. The date the grievance is returned to the inmate (the date the grievance leaves the recipient's office) shall be noted on the form. This is the date that will be used to determine whether or not the inmate has met the fifteen day time limitation in filing his or her appeal to the Office of the Secretary.

(b) The second copy shall be forwarded to the correctional sentence specialist for placement in the inmate's file.

(c) The reviewing authority as defined in paragraph 33-103.002(14)(b), F.A.C., shall retain a complete copy of the grievance on

file.

(d) Other attachments are considered to be part of the grievance and shall not be returned to the inmate except in those cases where the inmate submits sufficient copies of attachments at the time the formal grievance is filed.

(7) The response to the formal grievance shall include the following statement, or one similar in content and intent if the grievance is denied: You may obtain further administrative review of your complaint by obtaining form DC1-303, Request for Administrative Remedy or Appeal, completing the form, providing attachments as required by paragraphs 33-103.007(3)(a) and (b), F.A.C., and forwarding your complaint to the Bureau of Policy Management and Inmate Appeals, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

(8) Mailing Procedures. The warden or person designated in Rule 33-103.002, F.A.C., shall establish a procedure in the institution or facility under his supervision for processing those grievances that require mailing. Inmates who are filing grievances that require mailing shall be required to utilize the procedure set forth in this rule when processing their grievances or appeals to the reviewing authority of community facilities or the Bureau of Policy Management and Inmate Appeals in central office. The institution or facility shall provide postage for grievances submitted through this process. Procedures implemented shall include, at a minimum, the following:

(a) The establishment of an office through which grievances shall be processed.

(b) The establishment of a logging and tracking system to record and document receipt and mailing of inmate grievances.

(c) A requirement that the staff person designated to accept the grievance to be mailed shall:

1. Complete the receipt portion of Form DC1-303 for appeals being forwarded to central office by entering a log/tracking number and date of receipt and sign as the recipient.

2. Record receipt of the grievance in the institutional log. The staff person shall not read or classify the grievance.

3. Place the grievance in the mail through the institution or facility mail service within one workday.

(d) The inmate shall have his grievance ready for mailing at the time he turns it over to staff for processing as described in paragraph (c) above. Once this process has been completed, the grievance will not be returned to the inmate. If the inmate desires his grievance to be forwarded in a sealed envelope, the inmate shall provide to the staff a properly addressed envelope so that once the grievance is processed by staff, the grievance can be placed into the envelope and sealed for forwarding.

(e) If the inmate elects to mail the grievance to central office directly and bypass the logging/tracking process, the inmate may submit his or her grievance in a sealed envelope to be placed in the institutional bulk mail that is to be mailed daily to central office.

(f) Upon receipt of a mailed grievance by the reviewing authority as defined in paragraph 33-103.002(14)(d), F.A.C., the following shall occur:

1. The decision of whether or not the grievance has been timely filed by the inmate shall be made based upon the following comparisons:

a. In the case of a formal grievance being filed, by comparing the receipt date on Form DC1-303 to the response date of the informal grievance.

b. In the case of a grievance being filed directly at the institutional level, by comparing the receipt date on Form DC1-303 to the date of the incident or situation giving rise to the complaint.

2. The receiving office shall review the grievance and determine the classification of the grievance and enter the same on the receipt that is returned to the inmate.

3. The receiving office shall then process the grievance filed by the inmate in accord with the provisions set forth in Rule 33-103.006 or 33-103.007, F.A.C., as appropriate.

(9) If an inmate is in a special housing unit and wants to file a grievance, he shall submit the grievance to designated staff by placing the grievance in a locked box. The designated staff person shall deliver the box to the institutional grievance coordinator who will unlock the box, remove the grievances, log the grievances, and provide the inmates with receipts.

(10) The employee responding to the formal grievance should not be the same employee who responded to the informal grievance (if one was filed) unless circumstances dictate that this cannot be avoided.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.006, Amended 8-1-00, 10-11-00, 2-9-05, 10-28-07, 3-25-08, 5-27-12, 11-7-12, 11-24-13.

33-103.007 Appeals and Direct Grievances to the Office of the Secretary.

(1) In the event that an inmate feels that the grievance has not been satisfactorily resolved during the formal grievance

procedure, an appeal may be submitted according to the time limits set forth in Rule 33-103.011, F.A.C., using Form DC1-303, Request for Administrative Remedy or Appeal, to the Office of the Secretary without interference from staff. Form DC1-303 is incorporated by reference in Rule 33-103.006, F.A.C.

(2) Procedural Requirements.

(a) The inmate shall fill out the identifying data at the top of the form by printing his committed name, Department of Corrections number, and institution or facility name and shall check the appropriate box;

(b) The inmate shall state his grievance in Part A. If additional space is needed, the inmate shall use attachments rather than multiple copies of Form DC1-303. Only 2 additional pages of narrative will be allowed. If the inmate writes his complaint anywhere other than within the boundaries of Part A Box or on the 2 allowable attachment pages, his grievance shall be returned for non-compliance;

(c) The inmate shall sign and date the form, indicating his Department of Corrections number. If the inmate fails to sign the grievance, it shall result in a delay in addressing the grievance until it can be verified that it is that inmate's grievance;

(d) The form shall be legible and the grievance shall be clearly stated;

(e) Included facts shall be accurately stated; and

(f) Each grievance shall address only one issue or complaint.

(3) The Office of the Secretary has designated the Bureau of Policy Management and Inmate Appeals to receive, review, investigate, evaluate and respond to appeals and direct grievances filed with the Office of the Secretary. Appeals and direct grievances to the Office of the Secretary shall be turned over that same date to the Bureau of Policy Management and Inmate Appeals which shall ensure that the grievance is date-stamped in on the date of receipt. Upon receipt of the appeal or direct grievance by the Bureau of Policy Management and Inmate Appeals, the following shall occur:

The decision of whether or not the grievance has been timely filed by the inmate shall be made based upon the following comparisons:

(a) In the case of an appeal being filed with the central office, by comparing the receipt date on the DC1-303 form to the return date of the formal grievance (the date the grievance leaves the recipient's office).

(b) In the case of a grievance being filed directly at the central office level, by comparing the receipt date on the DC1-303 form to the date of the incident or situation giving rise to the complaint.

(4) Upon receipt of the grievance appeal or direct grievance, the Chief of Policy Management and Inmate Appeals shall cause the following to occur:

(a) The grievance and attachments shall be examined for compliance with Chapter 33-103, F.A.C.;

(b) A receipt shall be provided to the inmate;

(c) The subject matter of the grievance shall be indicated on the receipt according to the classification of the grievance, as specified in Rule 33-103.013, F.A.C.

(d) A grievance appeal or direct grievance may be returned to the inmate for any one or more of the reasons stated in Rule 33-103.014, F.A.C., without further processing.

(e) Following appropriate investigation and evaluation by staff of the Bureau of Policy Management and Inmate Appeals, a response shall be provided to the inmate. The degree of investigation is determined by the complexity of the issue and the content of the grievance.

(f) The response shall state whether the appeal or direct grievance is approved, denied, or being returned and shall also state the reasons for the approval, denial, or return. The criteria considered in approving, denying, or returning an appeal or direct grievance will vary with the facts of the grievance.

(5) Grievance appeals – If the grievance appeal is not a direct grievance to the Office of the Secretary, the inmate shall:

(a) Attach a copy of his formal grievance and response, except when appealing issues regarding requests for protective management, admissible reading material, sentence structure (release date calculations), inmate banking, emergencies or allegations of reprisal. (These may be filed directly to the Office of the Secretary).

(b) Attach a copy of his informal grievance and response, except when appealing issues regarding medical, Americans with Disabilities Act, gain time governed by Rule 33-601.101, F.A.C. Incentive Gain Time, placement in close management and subsequent reviews, return of incoming mail governed by subsection 33-210.101(14), F.A.C., disciplinary action (does not include corrective consultations) governed by Rule 33-601.314, F.A.C.

(c) Attach any other documentation that the inmate has that is pertinent to the review and that the inmate wants reviewed.

Attachments as required by the rule that do not meet the requirements of this rule may result in the grievance being returned to the inmate.

(d) Submit the complete form with attachments to the Office of the Secretary in accordance with subsection 33-103.006(8), F.A.C. Failure to submit a complete grievance shall result in the grievance being returned to the inmate without action.

(e) If the inmate is filing an amendment to a previously filed grievance or appeal, the inmate shall clearly state this at the beginning of PART A of Form DC1-303, Request for Administrative Remedy or Appeal.

(6) Direct Grievances.

(a) Emergency grievances and grievances of reprisals, protective management, admissible reading material, grievances concerning sentence structure (release date calculations), inmate banking issues or sexual abuse grievances when the abuse is alleged to have been committed by the Warden of the institution where the inmate is currently housed may be filed directly with the Office of the Secretary using the Request for Administrative Remedy or Appeal, Form DC1-303. Grievances alleging a violation of the Health Insurance Portability and Accountability Act (HIPAA) must be filed directly with the Office of the Secretary using the Request for Administrative Remedy or Appeal, Form DC1-303. The following shall apply:

1. The inmate shall state at the beginning of Part A of Form DC1-303 that the grievance concerns either an emergency or is a grievance of a reprisal. When alleging HIPAA violations, the inmate shall state that the grievance concerns HIPAA at the beginning of Part A of Form DC1-303. The inmate or the third party filer of a sexual abuse grievance shall state at the beginning of Part A of Form DC1-303 that the grievance is a sexual abuse related grievance. On Form DC1-303 the third party filer shall check the box next to Third Party Grievance Alleging Sexual Abuse.

2. The inmate must clearly state the reason for not initially bringing the complaint to the attention of institutional staff and by-passing the informal and formal grievance steps of the institution or facility, except in the case of a HIPAA violation grievance which must be filed directly with the Office of the Secretary. In the case of a sexual abuse grievance, the inmate or the third party filer must clearly state that the formal grievance step of the institution or facility was by-passed because the abuse is alleged to have been committed by the Warden of the institution where the inmate is currently housed.

3. The inmate may forward grievances of these types to the Office of the Secretary in a sealed envelope by following the procedure set out in paragraph 33-103.006(8)(d), F.A.C. When a direct grievance alleging violation of HIPAA is received at the Office of the Secretary, the Bureau of Policy Management and Inmate Appeals shall forward the grievance to the Office of the Assistant Secretary for Health Services for investigation and response. The disclosure of medical information in a grievance authorizes staff to review the information and to use and disclose the medical information necessary to investigate in order to respond. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the Bureau of Policy Management and Inmate Appeals to ensure appropriate filing and routing.

(b) Emergency Grievances. An emergency grievance may be filed directly with the Secretary. Upon receipt, staff of the Bureau of Policy Management and Inmate Appeals shall take the following actions as soon as possible, but no later than two calendar days following receipt:

1. Review complaint and contact staff for additional information if necessary;
2. If an emergency is found to exist, initiate action to alleviate the condition giving rise to the emergency;
3. Provide a formal response to the inmate within 15 calendar days; and
4. If an emergency is not found to exist, it will be clearly marked on the grievance "not an emergency," signed and dated by the responding employee, and returned to the inmate within three working days of receipt as his reasons for by-passing the previous level of review will not be valid.

5. An inmate may file an emergency grievance if they believe they are subject to a substantial risk of imminent sexual abuse. When receiving an emergency grievance from an inmate expressing belief they are subject to a substantial risk of imminent sexual abuse the institution must take immediate corrective action. Staff handling this grievance shall provide an immediate response within 48 hours and shall issue a final decision within 5 calendar days from the receipt of the grievance. The final decision will document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(c) Grievances filed directly with the Office of the Secretary that are grievances of reprisal, protective management, admissible reading material, sentence structure (release date calculations), inmate banking issues, or a grievance alleging a violation of HIPAA shall be responded to according to established time frames.

(d) Upon receipt of the direct grievance and following review of the same, if it is determined that the grievance is not an

emergency grievance, a grievance of reprisal, protective management, admissible reading material, sentence structure (release date calculations), inmate banking issues, or a grievance alleging a violation of HIPAA, the grievance shall be returned to the inmate with the reasons for return specified advising the inmate to resubmit his or her grievance at the appropriate level. The other applicable procedures in Rule 33-103.007, F.A.C., governing the processing of appeals to the Office of the Secretary shall apply to these types of grievances.

(7) If the grievance is returned to the institution or facility or privatization commission for further investigation or response, the inmate may, following receipt of that response, re-file with the Office of the Secretary pursuant to Rule 33-103.007, F.A.C., if he is not satisfied with the response.

(8) Copies.

(a) The original copy of the grievance shall be returned to the inmate. The response shall be stamped "MAILED/FILED WITH AGENCY CLERK" along with the date mailed; the response shall be mailed on the same date that it is stamped. The response is deemed filed with the agency clerk on the date that it is stamped and mailed. The time period for appeal begins to run on the date that the response is stamped and mailed. If the inmate is transferred, it is his or her responsibility to notify the Bureau of Policy Management and Inmate Appeals.

(b) One copy of the grievance shall be sent to the warden of the institution or facility the inmate is assigned to for review and forwarding for inclusion in the inmate file.

(c) The second copy shall be forwarded to the Bureau of Classification and Central Records for inclusion in the inmate's central office file.

(d) Attachments are considered a part of the grievance and shall not be returned to the inmate, except in those cases where the inmate submits sufficient copies of attachments at the time the grievance appeal is filed.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 10-7-98, 2-17-99, Formerly 33-29.007, Amended 8-1-00, 6-29-03, 2-9-05, 8-21-06, 3-25-08, 6-13-12, 11-7-12, 11-24-13.

33-103.008 Grievances of Medical Nature.

(1) If a formal grievance of a medical nature is filed at the institutional level, it shall be forwarded to the institution's Chief Health Officer or clinical designee for investigation and response. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the warden or assistant warden or deputy warden to ensure appropriate filing and routing. The review and initialing of the grievance response shall be made by the Chief Health Officer or clinical designee. A clinical designee is a physician licensed and credentialed by the Department or an approved health care contractor who is designated by the Chief Health Officer to investigate, review and respond to grievances of a medical nature. Other procedures applicable to the processing of a formal grievance of a medical nature are as stated in Rule 33-103.006, F.A.C.

(2) If a grievance appeal of a medical nature is received by the Office of the Secretary, the Bureau of Policy Management and Inmate Appeals shall forward the grievance to the Office of the Assistant Secretary for Health Services for investigation and response. The disclosure of medical information in a grievance authorizes staff to review the information and to use and disclose the medical information necessary to investigate in order to respond. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the Bureau of Policy Management and Inmate Appeals to ensure appropriate filing and routing. Other procedures applicable to the processing of a grievance appeal of a medical nature are as stated in Rule 33-103.007, F.A.C.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.008, Amended 6-29-03, 2-9-05, 3-25-08, 5-27-12, 6-23-13.

33-103.009 Grievance Relating to Admissible Reading Material.

A complaint concerning disapproval of reading material shall be processed according to the provisions of Rule 33-501.401, F.A.C., and this chapter.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 9-8-92, Formerly 33-29.009.

33-103.010 Grievances Regarding Lost Personal Property.

Grievances concerning lost personal property shall be processed according to the provisions of this chapter and paragraphs 33-

602.201(14)(a) through (e), F.A.C.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 6-1-97, 12-7-97, Formerly 33-29.010, Amended 2-9-05.

33-103.011 Time Frames for Inmate Grievances.

When determining the time frames for grievances in all cases, the specified time frame shall commence on the day following the date of the incident or response to the grievance at the previous level. For example, if an incident occurred on December 1, fifteen days from that date would be December 16.

(1) Filing of Grievances.

(a) Informal Grievances – Must be received within 20 days of when the incident or action being grieved occurred unless the inmate has requested in writing and received approval for a 45 day extension to file an informal grievance about being physically restrained during pregnancy, labor or post-partum recovery pursuant to Rule 33-602.211, F.A.C. The request for an extension must be submitted on Form DC6-236, Inmate Request, and received within 20 days of the application of restraints.

(b) Formal Grievances – Must be received no later than 15 calendar days from:

1. The date on which the informal grievance was responded to; or
2. The date on which the incident or action being grieved occurred if an informal grievance was not filed pursuant to the circumstances specified in subsection 33-103.006(3), F.A.C., unless the grievance is an issue related to sexual abuse. Pursuant to sub-subparagraph 33-103.006(3)(j)1.a., F.A.C., sexual abuse grievances filed either by the inmate or a third party may be filed at any time after the incident is alleged to have occurred. After the initial filing, all other applicable timeframes shall apply.

(c) Grievance Appeals to the Office of the Secretary – Must be received within 15 calendar days from the date the response to the formal grievance is returned to the inmate.

(d) Direct Grievances to the Office of the Secretary – Must be received within 15 calendar days from the date on which the incident or action which is the subject of the grievance occurred.

(2) An extension of the above-stated time periods shall be granted when it is clearly demonstrated by the inmate to the satisfaction of the reviewing authority as defined in paragraphs 33-103.002(14)(b) and (c), F.A.C., or the Secretary that it was not feasible to file the grievance within the relevant time periods and that the inmate made a good faith effort to file in a timely manner. The granting of such an extension shall apply to the filing of an original grievance or when re-filing a grievance after correcting one or more deficiencies cited in Rule 33-103.014, F.A.C.

(3) Responding to Grievances.

(a) Informal Grievances – Following the initial receipt of an informal grievance, a written response shall be completed within 10 calendar days. See Rule 33-103.005, F.A.C.

(b) Formal Grievances – The reviewing authority as defined in paragraph 33-103.002(14)(b), F.A.C., shall have up to 20 calendar days from the date of receipt of the grievance to take action and respond. See Rule 33-103.006, F.A.C.

(c) Grievance Appeals and Direct Grievances to the Office of the Secretary – Shall be responded to within 30 calendar days from the date of the receipt of the grievance. See Rule 33-103.007, F.A.C.

(d) Emergency Grievances – Shall be responded to within 15 calendar days of receipt pursuant to paragraphs 33-103.006(3)(a) and 33-103.007(6)(b), F.A.C.

(4) The time limit for responding to grievances and appeals may be extended for a reasonable period agreeable to both parties if the extension is agreed to in writing by the inmate. Unless the grievant has agreed in writing to an extension, expiration of a time limit at any step in the process shall entitle the complainant to proceed to the next step of the grievance process. If this occurs, the complainant must clearly indicate this fact when filing at the next step. If the inmate does not agree to an extension of time at the central office level of review, he shall be entitled to proceed with judicial remedies as he would have exhausted his administrative remedies. The Bureau of Policy Management and Inmate Appeals will nevertheless ensure that the grievance is investigated and responded to even though an extension has not been agreed to by the inmate.

(5) If the 15th day referenced in paragraphs 33-103.011(1)(b), (c) and (d), F.A.C., falls on a weekend or holiday, the due date shall be the next regular work day.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.011, Amended 2-9-05, 3-25-08, 5-27-12, 11-7-12, 11-24-13.

33-103.012 Grievance Records.

(1) A log shall be made of each formal grievance, direct grievance, or appeal and shall contain, at a minimum, the following information:

- (a) Inmate name;
- (b) Prison number;
- (c) Date that the grievance or appeal was received;
- (d) Nature of the grievance or appeal and issue or question to be resolved;
- (e) Disposition of grievance or appeal;
- (f) Reasons for disposition;
- (g) Date of disposition.

(2) This log shall be retained on file for a minimum of 4 years following final disposition of the grievance or appeal. Copies of all grievances or appeals that are filed shall be maintained on record for a minimum of 4 years.

(3) A log shall be made of each informal grievance and shall contain, at a minimum, the following information:

- (a) Inmate name;
- (b) Prison number;
- (c) Date that the grievance or appeal was received;
- (d) Staff member responsible in the particular area of the problem, the classification team, the appropriate section head, or other institutional staff who is to respond to the informal grievance.

(4) The Department shall maintain the confidentiality of inmate grievance records to the extent permitted under Florida law.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.012, Amended 2-9-05, 3-25-08.

33-103.013 Classification of Grievance.

Following receipt of the grievance or appeal, a computer generated receipt or part C of Form DC1-303 shall be completed and sent to the inmate except for grievances returned for one or more of the reasons cited in Rule 33-103.014, F.A.C. The subject area of the receipt shall indicate the major topic area of the grievance or appeal according to the following classifications:

- (1) Transfers – Complaints or objections concerning movement to and from institutions and facilities.
- (2) Program Assignments – Complaints or objections concerning work, education, housing and other assignments; custody and security classification, classification decisions and actions; progress reviews, protective custody.
- (3) Communications – Complaints or objections concerning mail, visiting, telephones, packages, letters and requests to staff.
- (4) Confinement – Complaints or objections concerning administrative and disciplinary confinement, privileges, program participation, living conditions.
- (5) Discipline – Complaints concerning the entire disciplinary process, excluding specific complaints concerning the conditions of confinement.
- (6) Institutional Operations – Complaints concerning clothing, sanitation, time schedules, general policies, heat and ventilation, safety, security matters, privileges, services and activities.
- (7) Medical and Dental – All complaints concerning medical, dental, psychiatric and psychological services, and HIPAA.
- (8) Legal – Complaints concerning sentence computation, release dates, gain time, jail time credits, religious, due process.
- (9) Grievance Process – Forms unavailable, response not received.
- (10) Complaints Against Staff – Discrimination, harassment, negligence, improper conduct or language.
- (11) Personal Property – Loss, damage, confiscation, transfer of personal property.
- (12) Food Service – Complaints concerning any aspect of food service.
- (13) Miscellaneous – All other types of complaints not covered above.
- (14) Admissible Reading Material: Complaints filed pursuant to Rules 33-103.009 and 33-501.401, F.A.C.
- (15) ADA – Americans with Disabilities Act.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS., 45 C.F.R. Part 160, 164. History—New 10-12-89, Amended 12-22-92, 8-10-97, 2-18-99, Formerly 33-29.013, Amended 6-29-03, 2-9-05.

33-103.014 Reasons for Return of Grievance or Appeal Without Processing.

(1) The informal grievance, formal grievance, direct grievance, or grievance appeal, hereafter referred to as “grievance,” may be returned to the inmate without further processing if, following a review of the grievance, one or more of the following conditions are found to exist. The reasons listed below are the only reasons for returning a grievance without a response on the merits.

- (a) The grievance addresses more than one issue or complaint.
- (b) The grievance is so broad, general or vague in nature that it cannot be clearly investigated, evaluated, and responded to.
- (c) The grievance is not written legibly and cannot be clearly understood.
- (d) The formal grievance was not received within 15 calendar days of the date of the response to the informal grievance.
- (e) The formal grievance was not received within 15 calendar days of the date on which the incident or action being complained about occurred, if an informal grievance was not filed pursuant to subsection 33-103.006(3), F.A.C.
- (f) The inmate did not provide a valid reason for by-passing the previous levels of review as required or the reason provided is not acceptable. This evaluation is made on a case by case basis and the reasons for rejecting the complaint will vary with the facts alleged in the complaint.
- (g) The grievance did not have the attachments required: informal grievance and response, except as allowed for in paragraphs 33-103.006(3)(a) through (h), F.A.C., or the formal grievance and response, except as provided for in subsection 33-103.007(6), F.A.C.;
- (h) The direct grievance to the Office of the Secretary was not received within 15 calendar days of the date that the incident or action being grieved occurred; or
- (i) The grievance appeal was not received within 15 calendar days from the date of the response to the formal grievance.
- (j) The inmate has not filed his grievance at the location he is presently assigned to as required in subsection 33-103.015(4), F.A.C.
- (k) The inmate has written his or her complaint outside of the boundaries of the space provided on the grievance form or request form.
- (l) The inmate has used multiple copies of grievance forms rather than attachments as continuation sheets.
- (m) A decision has already been rendered to an inmate by a particular office on the issue currently being grieved before it.
- (n) The inmate is grieving a matter beyond the control of the Department as described in subsection 33-103.001(4), F.A.C.
- (o) The inmate is raising allegations and charges in a grievance appeal that have not been raised below at the previous level. (Since this is an appellate review process and not a fact-finding process, it is not appropriate to raise new allegations, charges, and facts that the previous decision maker has not had an opportunity to investigate and respond to.)
- (p) The inmate has filed more than one appeal of a grievance. This would not include the situation where an inmate wishes to appeal the denial of his grievance as well as allege non-compliance with the grievance process. Since these are two separate issues, they would have to be raised in separate grievances.
- (q) The inmate has filed a supplement to a grievance or appeal that has already been accepted. An exception will be made when the supplement contains relevant and determinative information that was not accessible to or known by the inmate at the time the original grievance or appeal was filed.
- (r) Complaints are raised by an inmate regarding incidents that do not affect the inmate personally.
- (s) The inmate filed a grievance at the institutional level that should have been filed directly with the Office of the Secretary.
- (t) The inmate used more than two (2) additional narrative pages.
- (u) The inmate filed an informal grievance in excess to 20 days from the time the event being grieved occurred.
- (v) The inmate is using the grievance process to ask questions or seek information, guidance or assistance.
- (w) The inmate is filing an informal grievance about being physically restrained pursuant to Rule 33-602.211, F.A.C. either beyond the initial required timeframe without first requesting and obtaining an extension, or has filed beyond an approved 45 day extension.
- (x) The inmate fails to use his committed name pursuant to Rules 33-603.101 and 33-103.006, F.A.C., when completing a grievance.

(2) An inmate who has a grievance returned to him for reasons stated in subsection (1) above [excluding paragraph (1)(d), (e), (h), (i), (m), (n), (p), (q), (r), (u), (v) or (w)] may refile utilizing the proper procedure or correct the stated deficiency and refile if upon receipt of this notification the filing is within time frames allowable. When a grievance is returned to an inmate for being improperly filed, the inmate shall be told why the grievance was returned and told that in order to receive administrative review of

his complaint he must correct the defects and re-submit the grievance within the time frames set forth in Rule 33-103.011, F.A.C., unless instructed otherwise in the grievance response. Instructions to resubmit are not necessary if a grievance is returned for reasons stated in paragraph (1)(d), (e), (h), (i), (m), (n), (p), (q), (r), (u), (v) or (w).

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, 5-10-98, Formerly 33-29.014, Amended 6-29-03, 2-9-05, 6-13-12, 11-7-12, 11-24-13.

33-103.015 Inmate Grievances – Miscellaneous Provisions.

(1) Inmates shall be allowed to seek assistance from other inmates or staff members in completing the grievance forms as long as the assistance requested does not interfere with the security and order of the institution.

(2) Form DC6-236, Inmate Request, and Form DC1-303, Request for Administrative Remedy or Appeal, shall be available as a minimum from the institutional library, classification department, classification staff, and the housing officer of any living unit or confinement unit. Form DC6-236 is incorporated by reference in Rule 33-103.005, F.A.C. Form DC1-303 is incorporated by reference in Rule 33-103.006, F.A.C.

(3) The warden, assistant warden or deputy warden (deputy warden applicable to private facilities only) is authorized to designate other staff to receive, review, and investigate any grievance of an institutional nature. The warden is authorized to designate the assistant warden or deputy warden (deputy warden applicable to private facilities only) to grant and implement relief as approved by the warden, except as to grievances involving discipline, grievances alleging violation of the Americans with Disabilities Act, grievances challenging placement in close management and subsequent reviews, grievances of an emergency nature, or grievances of reprisal that are filed directly with the warden. For grievances filed directly with the warden, the decision to approve, return, or deny the grievance shall be made by the warden; the assistant warden or deputy warden shall only be authorized to sign as acting warden in the warden's absence, and must indicate "Acting Warden" beside his or her signature.

(4) All informal and formal grievances, except those administrative appeals filed directly with the Office of the Secretary, must be filed at the institution or facility to which the inmate is presently assigned. "Presently assigned" means the institution or facility in which the inmate is housed at the time he files either the informal or formal grievance. When either the informal or formal grievance complaint concerns an informal or formal grievance that occurred at another location, it shall remain the responsibility of the staff at the inmate's present location to handle the informal or formal grievance. The final resolution of the informal or formal grievance is the responsibility of the warden at the institution to which the inmate is presently assigned. Direct contact with outside staff may be necessary in resolving the informal or formal grievance.

(5) The response to an informal grievance and a formal grievance shall include the following statement, or one similar in content and intent if the grievance is denied: You may obtain further administrative review of your complaint by obtaining Form DC1-303, Request for Administrative Remedy or Appeal, completing the form, providing attachments as required, and forwarding your complaint to the warden, assistant warden, deputy warden or the Bureau of Policy Management and Inmate Appeals.

(6) At no time will an inmate who is alleging that he was physically abused as described in Section 944.35(3), F.S., or alleging reprisal by staff, as defined in Rule 33-103.002, F.A.C., be directed to submit his or her grievance to the staff person who is the subject of the complaint, nor will the grievance be referred to a staff person who is the subject of the complaint.

(7) Writing paper and writing utensils shall be provided to those inmates who have insufficient funds in their accounts at the time the materials are requested if such are needed to prepare the grievance or grievance appeal. These supplies shall be available from the institution library, classification department classification staff, and the housing officer of any living unit or confinement unit.

(8) Copying services for documents to be included as attachments to a grievance or grievance appeal shall be handled according to Rule 33-501.302, F.A.C., except that copying services shall not be provided to make copies of Form DC6-236 or Form DC1-303, attachments that are a continuation of the request portion of Form DC6-236, or attachments that are a continuation of Part A of Form DC1-303.

(9) If an inmate files more than one grievance or appeal dealing with the same or very similar issues, the institution or central office has the option of consolidating these grievances for purposes of providing a response to the inmate.

(10) A copy of these rules shall be available for access by inmates at a minimum in the inmate library and from the housing officer of any confinement unit.

(11) Provisions shall be made to ensure that grievances submitted by confinement inmates are collected on a daily basis, and that those grievances which require mailing are processed in accordance with Rule 33-103.006, F.A.C.

(12) Staff shall respond to inquiries made by the Bureau of Policy Management and Inmate Appeals by the close of business on the seventh day after the request.

(13) If an inmate elects to withdraw a grievance they should notify staff using Form DC6-236, Inmate Request. The request should include the date the grievance was filed along with the subject matter of the grievance. Staff should indicate on the grievance log that the grievance was withdrawn at the request of the inmate along with the date of the request to withdraw.

Rulemaking Authority 944.09 FS. Law Implemented 944.09, 944.241 FS. History—New 10-12-89, Amended 1-29-92, 9-3-92, 12-22-92, 7-11-93, 5-3-94, 4-10-95, 9-23-96, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.015, Amended 8-1-00, 10-11-00, 2-7-01, 5-27-02, 1-2-03, 2-9-05, 9-4-05, 10-28-07, 5-27-12, 11-7-12, 11-24-13.

33-103.016 Follow Through on Approved Grievances.

(1) Formal Grievance – Institution or Facility Level. All formal grievances that are approved at the institution or facility level shall be handled as follows:

(a) The employee approving the grievance shall complete Section I of Form DC1-306, Grievance Approval Action Form. Form DC1-306 is incorporated by reference in Rule 33-103.016, F.A.C. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399 and <http://www.flrules.org/Gateway/reference.asp?No=Ref-01870>. The effective date of the form is 11-12.

(b) The approving employee shall then send Form DC1-306 and a copy of the approved formal grievance to the grievance coordinator in the event they are not one and the same.

(c) The grievance coordinator shall complete Sections II, III, and IV of Form DC1-306. The grievance coordinator shall then provide the form and a copy of the approved grievance to the staff member(s) assigned responsibility for implementing the approved action. The grievance coordinator shall monitor this process.

(d) The assigned staff member(s) shall complete Section V of Form DC1-306, stating what steps were taken to implement the approved action. This shall not be done until after the steps have been taken. The assigned staff member(s) shall have 30 calendar days from the date the grievance was approved within which to implement the approved action. In the event that actual implementation cannot be completed within the 30 day period due to circumstances beyond the control of department staff, the assigned staff member(s) shall indicate this and the reasons therefor in Section V within the 30 day period. The form shall be held by the assigned staff member until the corrective action has been taken.

(e) Form DC1-306 shall then be returned to the grievance coordinator who shall ensure that the warden completes Section VI of the form.

(f) The grievance coordinator shall complete Section VII of Form DC1-306, place a copy of the form in the grievance record log, and attach a copy of the form to the copy of the approved grievance in the inmate's file. A copy of the form shall not be sent to central office.

(2) Appeals and direct grievances to the Office of the Secretary. All grievances that are approved by the Bureau of Policy Management and Inmate Appeals shall be handled as follows:

(a) The employee approving the grievance shall complete Section I of Form DC1-306.

(b) The approving employee shall then mail Form DC1-306, along with a copy of the approved grievance or appeal to the appropriate warden's office.

(c) The warden shall forward Form DC1-306 to the institutional grievance coordinator who shall complete Sections II, III, and IV of the DC1-306. The grievance coordinator shall then provide the form and a copy of the approved grievance to the staff member(s) assigned responsibility for implementing the approved action. The grievance coordinator shall monitor this process.

(d) The assigned staff member(s) shall complete Section V of Form DC1-306 stating what action was taken to carry out the approval. This shall not be done until after the action has actually been taken. The assigned staff member(s) shall have 35 calendar days from the date the grievance or appeal was approved within which to implement the approved action. In the event that actual implementation cannot be completed within the 35 day period due to circumstances beyond the control of department staff, the assigned staff member(s) shall indicate this and the reasons therefor in Section V. The form shall be held by the assigned staff member until the corrective action has been taken.

(e) Upon completion of the corrective action, Form DC1-306 shall then be returned to the grievance coordinator who shall ensure that the warden completes Section VI of the form.

(f) The grievance coordinator shall place a copy of the completed form in the inmate's institutional file, retain a copy for his

record, and forward the original form to the Chief of Policy Management and Inmate Appeals within 45 calendar days from the grievance approval date. The Chief shall ensure that the inmate grievance log in the Bureau of Policy Management and Inmate Appeals is updated and that a copy of Form DC1-306 is sent to the central office inmate file.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History--New 4-10-95, Amended 12-7-97, Formerly 33-29.0155, Amended 8-1-00, 1-1-01, 8-21-06, 3-25-08, 6-13-12, 11-7-12.

33-103.017 Inmate Grievances – Reprisal.

(1) Inmates shall be allowed access to the grievance process without hindrance. Staff found to be obstructing an inmate's access to the grievance process shall be subject to disciplinary action ranging from oral reprimand up to dismissal in accordance with Rules 33-208.001-.003, F.A.C. Good faith use of or good faith participation in the grievance process shall not result in reprisal against the inmate.

(2) An inmate shall be subject to disciplinary action if the inmate knowingly includes false, threatening, obscene, or profane statements in the grievance or any of its attachments. In this instance the inmate shall be subject to administrative action in accordance with the provisions of Rules 33-601.301-.314, F.A.C., or criminal prosecution. Notwithstanding administrative or criminal proceedings, the grievance shall be responded to on its merits.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History--New 10-12-89, Amended 12-22-92, 4-10-95, Formerly 33-29.016, Amended 10-11-00, 2-9-05, 10-28-07.

33-103.018 Evaluation of the Grievance Procedure.

The grievance procedure shall be reviewed at each institution through operational reviews conducted by the Regional Directors of Institutions. This evaluation shall include information obtained from a survey of staff and inmates, review of employees' and inmates' comments on the effectiveness and credibility of the procedure, on-site visits to institutions and facilities by staff of the Bureau of Policy Management and Inmate Appeals, and from requested reports prepared by the Bureau of Policy Management and Inmate Appeals.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History--New 10-12-89, Amended 12-22-92, 4-10-95, Formerly 33-29.017, Amended 2-9-05, 5-27-12, 11-7-12.

33-103.019 Inmate Grievances – Forms.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History--New 10-12-89, Amended 4-10-95, 12-7-97, Formerly 33-29.018, Amended 8-1-00, 10-11-00, 2-9-05, 12-17-06, 6-18-07, 8-27-07, 10-19-09, 5-27-12, Repealed 11-7-12.