


# MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT

<b>VOLUME: 15</b>	<b>DSOP: 15-001</b>	<b>YEAR: 2012</b>	<b>VERSION: 1</b>
<b>SUBJECT:</b>	<b>INMATE COMPLAINT/GRIEVANCE PROCESS</b>		

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### I. POLICY

It is the policy of the Miami-Dade Corrections and Rehabilitation Department (MDCR) to provide a procedure for all inmates to have their complaints and grievances addressed in a fair and equitable manner, as well as to afford MDCR the opportunity to address such matters in a timely and efficient manner. The Reentry Program Services Bureau (RPSB) shall be responsible for the overall coordination and management of the Inmate Grievance Process.

MDCR has established an inmate grievance procedure that conforms to the minimum standards for Inmate Grievance Procedures as promulgated by Florida Statutes (FS) 112.533, 944.09, 944.331 and the United States Department of Justice pursuant to 42 U.S.C. s. 1997e. This policy establishes grievance procedures, rights of inmates, identifies

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time frames, and addresses resolution and appeal mechanisms. The complaint/grievance process shall be available and applicable to all inmates incarcerated in MDCR detention facilities, regardless of their status. In accordance with American Correctional Association (ACA) standards and Departmental Standard Operating Procedure (DSOP) 19-005 "Objective Jail Classification", there shall be a provision for a classification review and appeal process. Further, staff shall not prevent or interfere with the reporting of a complaint/grievance. An inmate shall not be subjected to mistreatment or retaliation of any kind for filing a complaint/grievance.

## II. DEFINITIONS

### **Business Workdays**

Monday through Friday, excluding holidays.

### **Emergency Complaint**

A complaint that includes, but is not limited to the following: sexual assault/sexual battery, immediate health issues, imminent safety issues, food spoilage and missing meals.

### **Grievance**

A formal written complaint submitted by the affected inmate regarding an unresolved issue.

### **Grievance Clerk**

An employee designated by the Reentry Program Services Bureau (RPSB) Supervisor in each facility/bureau to serve as the custodian of inmate complaint/grievance records.

### **Informal Complaint**

Verbal and/or written communication with staff for informal resolution of an issue.

### **Inmate Complaint/Grievance/Appeal Flow Chart**

The process that identifies the various steps and timeframes associated with the complaint/grievance/appeal process from the initial acceptance to final disposition.

### **Substantiated**

A ruling rendered, as a result of proof and/or evidence obtained concerning an inmate's formal written complaint/grievance.

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## Unsubstantiated

A ruling rendered, as a result of a lack of proof and/or evidence concerning an inmate's formal written complaint/grievance.

### III. INMATE COMPLAINT/GRIEVANCE

MDCR staff shall immediately respond to an inmate emergency complaint and provide resolution. The Classification Unit shall provide a copy of the Inmate Handbook that contains information regarding the inmate complaint/grievance process to each inmate during orientation. MDCR Inmate Action/Remedy Request and MDCR Inmate Grievance forms shall be readily available to all inmates. If an incident/situation affects more than one inmate, each inmate must personally submit a separate complaint/grievance. When an inmate has more than one complaint/grievance, each complaint/grievance must be submitted on a separate MDCR Inmate Grievance form. A RPSB Supervisor shall mark "REJECTED" on any Inmate Grievance form determined to be frivolous, manipulative or offensive. In such cases, the form shall be returned to the inmate with a written explanation.

MDCR staff shall assist any inmate who has a literacy issue or disability that prevents him/her from being able to submit or file a complaint/grievance. Grievance forms shall be available in English, Spanish and Creole. An inmate may obtain assistance from other inmates, his/her attorney, etc., in preparing his/her complaint/grievance. However, only the involved inmate shall personally submit or file the complaint/grievance.

#### A. NON-GRIEVABLE ISSUES

Several issues cannot be grieved to include the following:

1. State and federal court decisions;
2. Local, state and federal laws/regulations;
3. Issues beyond the scope of the authority MDCR.
4. Disciplinary findings.

#### B. INMATE COMPLAINT PROCESS

MDCR staff, e.g., officers, correctional counselors, supervisors, etc. shall immediately respond to an inmate emergency complaint and provide resolution. Whenever possible, MDCR staff shall resolve a complaint(s) informally by

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discussing the concern with the affected inmate and provide a response and/or remedy.

If after an informal discussion, the inmate believes his/her complaint was not resolved by MDCR staff, the inmate shall be provided an Inmate Action/Remedy Request form. The completed form must be submitted to MDCR staff within 5 workdays of the incident/situation.

If an inmate chooses, he/she may skip the informal complaint process and immediately utilize the formal grievance process. Accordingly, MDCR staff shall provide the inmate a MDCR Inmate Grievance form. The inmate may submit his/her complaint on a MDCR Inmate Grievance form or MDCR Inmate Request Form and forward the complaint to MDCR staff that will ensure the Correctional Counselor is in receipt of the written complaint. In addition, if the inmate chooses to utilize the informal complaint process and resolution is not provided within 5 workdays of the incident/situation, the MDCR staff shall provide the inmate a MDCR Inmate Grievance form.

### C. INMATE GRIEVANCE PROCESS

The inmate grievance process is available to all inmates and governed by the following protocol:

1. The inmate shall request a MDCR Inmate Grievance form or MDCR Inmate Request Form from any MDCR staff within 10 workdays of the incident/situation;
2. The inmate shall within 2 workdays of receipt complete and return the original MDCR Inmate Grievance form or Inmate Request Form to a MDCR staff. If applicable, the inmate shall attach a copy of his/her MDCR Inmate Action/Remedy Request form(s);
3. The MDCR staff shall forward the MDCR Inmate Grievance form or MDCR Inmate Request Form to his/her RPSB Supervisor or designee for review within 1 workday of receiving the form;
4. The RPSB Supervisor or designee will deliver the grievance to the Grievance Clerk, who shall assign a control number to all grievances within 1 workday following receipt of the grievance form; the Grievance Clerk shall record the Inmate Grievance
5. The RPSB Supervisor or designee shall review each MDCR Inmate Grievance form or Inmate Request Form for completeness. An incomplete

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form shall be returned to the inmate within 1 workday indicating the part(s) that must be completed. The inmate shall resubmit the form to a MDCR Staff within 2 workdays;

6. A MDCR Inmate Grievance form or MDCR Inmate Request Form containing more than 1 complaint (issue) and/or grievant (inmate name) shall be returned within 1 workday to the inmate(s). The affected inmate(s) shall resubmit the form(s) separately, i.e.; only 1 grievant issue and grievant name per MDCR Inmate Grievance form, within 2 workdays;
7. When a grievance is "Rejected" because it is written offensively or frivolously, it will be returned with a written explanation. The inmate may resubmit the MDCR Inmate Grievance form or MDCR Inmate Request form within 2 workdays from the date the form was returned to them;
8. The RPSB Supervisor or designee shall submit the properly completed MDCR Inmate Grievance form or MDCR Inmate Request Form to the Grievance Clerk within 2 workdays following receipt of the resubmitted grievance form ;
9. The Grievance Clerk shall forward all non-medical/dental/mental health grievances to the appropriate Facility/Bureau Supervisor or designee within 1 workday of receipt;
10. The Grievance Clerk shall forward all medical/dental/mental health grievances to the Inmate Medical Provider (IMP) Nurse Manager or designee within 1 workday of receipt;
11. The Facility/Bureau Supervisor or designee/IMP Nurse Manager or designee shall review the grievance form, and forward it to the appropriate MDCR bureau/division/entity for an investigation. The Facility/Bureau Supervisor or designee/IMP Nurse Manager or designee shall provide a written response/status update regarding the investigation to the inmate within 5 days;
12. If the inmate agrees with the written response, the grievance form shall be filed with the Grievance Clerk by the Correctional Counselor and the grievance process is complete;
13. If the inmate does not accept the decision of the Facility/Bureau Supervisor or designee, the inmate must indicate it on the MDCR Inmate Grievance form and sign it;
14. If the inmate refuses to sign the response to the MDCR Inmate Grievance form, the grievance process shall be terminated. The RPSB Supervisor or designee shall indicate the "inmate refused to sign" in the appropriate

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section (inmate signature section of the form). The RPSB Supervisor or designee shall sign his/her name and date the form. 1 additional signature will be obtained as a witness by a Correctional Counselor/MDCR staff;

15. If the inmate requests to appeal the decision, he/she must request, complete and submit a MDCR Inmate Grievance Appeal form to a Correctional Counselor/MDCR staff within 2 workdays from the date the MDCR Inmate Grievance form was returned to him/her;
16. If a grievance is denied for failing to comply with the time requirements, the grievance process shall continue, be investigated and a resolution determined;
17. A grievance resolution shall be provided within 10 workdays from the date the MDCR Inmate Grievance form was submitted to the Correctional Counselor/MDCR staff;
18. If an inmate's grievance is not resolved prior to his/her release from custody, the Inmate Grievance form shall be returned to the Grievance Clerk. Accordingly, the RPSB Supervisor or designee shall decide whether the grievance should be further investigated on behalf of the inmate or closed. In addition, since the inmate will not be available to sign the Inmate Grievance form, his/her release date will be noted in the area reserved for signature. The RPSB Supervisor or designee shall sign their name next to the inmate's release date.

### D. INMATE COMPLAINT/GRIEVANCE AGAINST AN EMPLOYEE

Upon receipt of a MDCR Inmate Action/Remedy Request, MDCR Inmate Request Form or MDCR Inmate Grievance form concerning alleged employee misconduct, the respective Facility/Bureau Supervisor or designee shall adhere to the following protocol:

1. Determine whether there is a need to conduct an investigation at the facility/bureau level. If so, the investigation shall be conducted by a supervisor who is at least 1 rank higher than the involved employee;
2. Ensure that any conflict of interest is avoided when investigating and responding to the inmate complaint/grievance;
3. If deemed appropriate, forward the MDCR Inmate Action/Remedy Request/MDCR Inmate Request Form or MDCR Inmate Grievance form to the Security and Internal Affairs Bureau Captain for appropriate handling in accordance with Departmental Standard Operating Procedure (DSOP) 4-015 "Complaints, Investigations and Dispositions."

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## **E. RESOLUTION PROCESS FOR NON-MEDICAL/DENTAL/MENTAL HEALTH GRIEVANCE**

The appropriate Facility/Bureau Supervisor or designee shall assign the grievance to the appropriate MDCR staff for investigation and/or resolution.

### **1. Unsubstantiated Non-Medical/Dental/Mental Health Grievance**

When the Facility/Bureau Supervisor or designee determines that a non-medical/dental/mental health grievance is unsubstantiated, the following protocol shall be adhered to:

- a. The Facility/Bureau Supervisor or designee shall indicate unsubstantiated on the Inmate Grievance form;
- b. The Facility/Bureau Supervisor or designee shall provide a detailed response on the Inmate Grievance form;
- c. The Facility/Bureau Supervisor or designee shall ensure that the Inmate Grievance form is returned to the MDCR staff/RPSB Supervisor within 10 workdays from the date it was received from the inmate;
- d. Upon receipt of the response, MDCR staff/RPSB Supervisor shall within 1 workday return the Inmate Grievance form to the inmate;
- e. If the inmate accepts and signs the response, the RPSB Supervisor or designee shall forward the signed MDCR Inmate Grievance form and all supporting documentation to the Grievance Clerk to be recorded as "Resolved";
- f. The Grievance Clerk shall distribute copies of the MDCR Inmate Grievance Appeal form to the Facility/Bureau Supervisor/IMP Nurse Manager or designee (who initially responded to the grievance), inmate, and RPSB file. Additionally, a copy of the grievance appeal package shall be forwarded to the Classification Unit and maintained in the inmate's classification folder.

### **2. Substantiated Non-Medical/Dental/ Mental Health Grievance**

When the Facility/Bureau Supervisor or designee determines that a non-medical/dental/mental health grievance is substantiated, the following protocol shall be adhered to:

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- a. The Facility/Bureau Supervisor or designee shall attempt to resolve the issue(s), problem, procedure or practice;
- b. If the Facility/Bureau Supervisor or designee is unable to effect the necessary corrective action, he/she shall forward the matter via his/her chain of command to the authority that can facilitate resolution;
- c. If the grievance involves lost property, the Facility/Bureau Supervisor or designee shall ensure that a copy of the MDCR Inmate Grievance form is forwarded to the Risk Management Unit for reconciliation. Accordingly, the inmate shall be informed and the reconciliation process will be conducted in accordance with risk management policies, procedures, and time frames. In addition, if the inmate makes an informal request or submits a MDCR Inmate Request form, he/she shall be provided a copy of the final reconciliation decision once rendered by the Risk Management Unit;
- d. The Facility/Bureau Supervisor or designee shall provide a detailed response on the Inmate Grievance form;
- e. The Facility/Bureau Supervisor or designee shall return the Inmate Grievance form to the RPSB Supervisor or designee within 10 workdays from the date it was received from the inmate;
- f. Upon receipt of the response, the RPSB Supervisor or designee shall within 1 workday return the Inmate Grievance form to the inmate;
- g. If the inmate accepts and signs the response, the RPSB Supervisor or designee shall forward the signed Inmate Grievance form and all supporting documentation to the Grievance Clerk to be recorded as "Resolved";
- h. The Grievance Clerk shall distribute copies of the Inmate Grievance Appeal form to the Facility/Bureau Supervisor/IMP Nurse Manager or designee (who initially responded to the grievance), inmate, and RPSB file. Additionally, a copy of the grievance appeal package shall be forwarded to the Classification Unit and maintained in the inmate's classification folder.



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### **F. RESOLUTION PROCESS FOR MEDICAL/DENTAL/MENTAL HEALTH INMATE GRIEVANCE**

It is the responsibility of the IMP Nurse Manager or designee to ensure that all inmate grievances regarding medical/dental/mental health issues are reviewed, investigated and responded to within 7 workdays of receipt of a MDCR Inmate Grievance form by a Correctional Counselor/MDCR staff. The IMP Nurse Manager or designee shall ensure adherence to the following protocol with the aforementioned timeframe:

1. Investigation of the grievance;
2. Determination as to whether the grievance is substantiated or unsubstantiated;
3. If the grievance is substantiated, provide a remedy;
4. Provide a detailed response on the Inmate Grievance form;
5. Ensure that the completed MDCR Inmate Grievance form is returned to the Correctional Counselor/MDCR staff within 7 workdays from the date it was received from the inmate.

Upon receipt of the response, the Correctional Counselor/MDCR staff shall within 1 workday return the Inmate Grievance form to the inmate. If the inmate accepts and signs the response, the Correctional Counselor/MDCR staff shall forward the signed Inmate Grievance form and all supporting documentation to the Grievance Clerk to be recorded as "Resolved."

### **G. GRIEVANCE RESOLUTION/RESPONSE NOT ACCEPTED BY INMATE**

If the Facility/Bureau Supervisor, IMP Nurse Manager or designee's resolution/response is not accepted by the inmate, he/she may request a MDCR Inmate Grievance Appeal form from a Correctional Counselor/MDCR staff. The inmate shall complete and submit the form to a Correctional Counselor/MDCR Staff within 2 workdays from receipt of the grievance resolution/response. The inmate shall:

1. Indicate "Appeal Requested" on the Inmate Grievance form;
2. Sign the Inmate Grievance Appeal form.

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### H. TIME LIMITATION EXTENSION FOR INMATE COMPLAINT/ GRIEVANCE PROCESS

The time limitation for the inmate complaint/grievance process may only be extended for good cause or if agreed to by the inmate and the Facility/Bureau Supervisor or designee/IMP Nurse Manager or designee in writing. If an extension is not agreed upon, the inmate can exercise his/her right to the grievance appeal process.

### I. INMATE GRIEVANCE APPEAL PROCESS

If an inmate decides to exercise his right to appeal, he/she must complete and submit a MDCR Inmate Grievance Appeal form to a Correctional Counselor/MDCR Staff within 2 workdays of receiving the grievance decision. However, if an inmate has not received a grievance decision within 30 calendar days of submitting the grievance to a Correctional Counselor/MDCR staff, the grievance will be considered denied and treated as an unsubstantiated claim. In such case, if the inmate decides to appeal, he/she must complete and submit the MDCR Inmate Grievance form to a Correctional Counselor/MDCR staff within 2 workdays of the expiration of the 30 day period. The appeal process has a time limitation of 5 workdays from the date the Inmate Grievance Appeal form was submitted to the Correctional Counselor/MDCR staff by the inmate. The inmate grievance appeal process is governed by the following protocol:

1. The Correctional Counselor/MDCR staff shall within 1 workday of receipt, forward the completed Inmate Grievance Appeal form and all supporting documentation (grievance package) to the Grievance Clerk;
2. Upon receipt, the Grievance Clerk shall within 1 workday, record the appeal and forward the grievance package to the appropriate Division Chief or the Director of Patient Care Services for review;
3. The Division Chief or the Director of Patient Care Services shall review the grievance appeal package and if necessary, appoint an independent person to reinvestigate the grievance;
4. The Division Chief or the Director of Patient Care Services shall provide a detailed response on the Inmate Grievance Appeal form stating the resolution (if applicable) and indicating whether the appeal was substantiated or unsubstantiated;
5. The MDCR Inmate Grievance Appeal form shall be returned to the inmate for acknowledgment and signature verifying receipt of the response. The

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Correctional Counselor shall ensure that the inmate grievance appeal process is complete within 5 workdays;

6. The decision of the Division Chief/Director of Patient Care Services is final and there shall be no further appeal. Any further grievance(s) received about the same incident/situation from the same inmate shall be declined;
7. The Correctional Counselor/MDCR staff shall return the grievance appeal package to the Grievance Clerk for recording and distribution;
8. The Grievance Clerk shall distribute copies of the Inmate Grievance Appeal form to the Facility/Bureau Supervisor/IMP Nurse Manager or designee as the initial respondent, the inmate and RPSB file. Additionally, a copy of the grievance appeal package shall be forwarded to the Classification Unit and maintained in the inmate's classification folder.

### **J. TIME LIMITATION EXTENSION FOR THE INMATE GRIEVANCE APPEAL PROCESS**

The time limitation for the inmate grievance appeal process may only be extended if agreed to in writing by the inmate and the Division Chief/Director of Patient Care Services.

### **K. INMATE COMPLAINT/GRIEVANCE/APPEAL FLOW CHART**

The Inmate Complaint/Grievance/Appeal Flow Chart identifies the various steps and timeframes associated with the complaint/grievance/appeal process (from initial acceptance to final disposition).

### **L. RECORDS/REPORTS**

The Grievance Clerk shall manage inmate complaint/grievance/appeal records as follows:

1. Maintain records of all inmate complaints/grievances/appeals;
2. Categorize and record each inmate complaint/grievance/appeal according to departmental protocol;
3. Complete the Inmate Grievance Control Log;

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4. Distribute records of resolved grievances to the appropriate Facility/Bureau Supervisor/IMP Nurse Manager or designee, RPSB file, Classification Unit and inmate;
5. Ensure records are available to employees who have appropriate clearance.

These records shall be utilized by the RPSB to compile statistical data, conduct trend analysis, and prepare departmental reports, e.g., Primary Indicator Reports.

## M. AUDITING

The Chief of the Special Services Division shall review the Grievance Tracking System quarterly to identify trends and systemic areas of concern.

## IV. CROSS REFERENCES

DSOP 4-003 "News Media and Public Relations"

DSOP 4-015 "Complaints, Investigations and Dispositions"

DSOP 11-021 "Overview of Supervisory Duties and Responsibilities"

DSOP 14-008 "Healthcare Services"

DSOP 19-005" Objective Jail Classification"

DSOP 19-006 "Subsistence Fee"

DSOP 25-001 "Food Services Operation"

## V. RELATED REFERENCES

Florida Administrative Code Rules 33-103.001 thru 019

Florida Model Jail Standards 2.10 (f)

Florida Statute 112.533(2)(a); 944.09(a)(d); 944.331

United States Department of Justice, 42 U.S.C. s. 1997e

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## VI. ACCREDITATION STANDARDS

ACA 2010 & 2010 Supplemental	4-ALDF-2A-27; 4-ALDF-6B-01; 4-ALDF-6C-18; 1-ABC-3D-08; 1-ABC-5A-01-1; 2-CO-3C-01; 2-CO-4B-03
FCAC 2012	7.13, 7.20M

## VII. REVOCATIONS

Any language in a DSOP, Procedural Directive, Standard Operating Procedure, Post Order, and/or written correspondence that conflicts with this policy is hereby revoked.

### FORMS/SUPPORTING DOCUMENTS

Inmate Action/Remedy Request

Inmate Complaint/Grievance/Appeal Flow Chart

Inmate Grievance

Inmate Grievance Appeal

Inmate Grievance Control Log

Inmate Request Form