

**NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
740**

INMATE GRIEVANCE PROCEDURE

Supersedes: AR 740 (Temporary, 11/23/09)

Effective Date: 02/12/10

AUTHORITY NRS 209.131 NRS 209.246

RESPONSIBILITY

1. The Director, through the Deputy Directors (DDs), shall be responsible in establishing and supervising an inmate grievance process that provides an appropriate and substantial response to an inmate's claim, as well as an administrative means for the expression of, and prompt and fair resolution of, inmate problems and concerns.
2. The Associate Warden (AW) shall be responsible in managing the grievance process at each institution and any facilities under the control of the parent institution. The AW may designate an Inmate Grievance Coordinator to conduct functions required by this regulation.
3. The Offender Management Administrator (OMA) shall be responsible for supervision of the Offender Issue Tracking System (OITS) in the Nevada Offender Tracking Information System (NOTIS), the program and the computer system which manages the inmate grievances.

740.01 ADMINISTRATION OF INMATE GRIEVANCES

1. Each institution/facility shall establish locked boxes where all inmates have access to submit their grievances directly to the box. Keys will be issued to the Warden, AW and a designated coordinator only.
 - A. Lock boxes will be maintained in close/max units in a manner in which the inmate will be allowed to have direct access. The grievance coordinator may go cell to cell to pick up grievances in close/max units due to security and safety concerns, if necessary.
 - B. Emergency grievances will be handed to staff for immediate processing per this regulation.
2. Grievances will be treated as legal correspondence and will be gathered daily, Monday through Friday, excluding holidays, by the AW or designated Grievance Coordinator(s).
3. Grievance forms will be kept in housing units and may be accessed through the unit staff, the unit caseworker or in the Institutional Law Library. Emergency forms may be accessed through any employee.

4. If an 'emergency grievance' is filed, other staff members may be involved in receiving the grievance and delivering the response.

5. The Grievance Coordinator should record receipts, transmittals, actions, and responses on all grievances to OITS/NOTIS within three (3) working days of receipt.

A. The coordinator should sign, date and enter the approximate time as noted on DOC 3091, 3093 and 3094.

B. Each page of the grievance should be date stamped the day entered into OITS/NOTIS.

6. Monthly and annual grievance reports generated by OITS/NOTIS will be reviewed by the DDs, AWs and Wardens for review and evaluation on a monthly and annual basis.

740.02 GRIEVANCE RECORDS

1. Grievance documents shall be stored at the facility/institution where the grievance issue occurred.

A. Grievance files shall be in separate files for each inmate and maintained in alphabetical order by the inmate's last name.

B. Grievance copies are not to be placed in an inmate's Institutional or Central File, nor shall they be available to employees not involved in the grievance process.

2. Grievance files shall be maintained at each institution for a minimum of five (5) years following final disposition of the grievance.

3. Employees who are participating in the disposition of a grievance shall have access to records essential to the disposition of the grievance.

4. No inmate will have access to grievance records unless ordered by a court, as grievance records are considered confidential.

5. Upon completion of each level of the grievance process, the form and all relevant attachments shall be maintained in the inmate's separate grievance file. Copies shall be given to the inmate.

740.03 GRIEVANCE ISSUES

1. Inmates may use the Inmate Grievance Procedure to resolve addressable inmate claims including, but not limited to, personal property, property damage, disciplinary appeals, personal injuries, and any other tort claim or civil rights claim relating to conditions of institutional life.

2. All allegations of inmate abuse by Department staff, employees, agents or independent contractors, shall be immediately reported to the AWs, the Warden and the Inspector General's

Office, in accordance with investigator guidelines via the NOTIS reporting system.

3. Only inmate claims arising out of, or relating to, issues within the authority and control of the Department may be submitted for review and resolution. Non-grievable issues include:

- A. State and federal court decisions.
- B. State, federal and local laws and regulations.
- C. Parole Board actions and/or decisions.

4. Claims for which the inmate lacks standing will not be accepted, included, but not limited to:

- A. Filing a grievance on behalf of another inmate unless the inmate is so physically or emotionally handicapped as to be incapable of filing a grievance and with the other inmate's approval.
- B. The inmate filing the grievance was not a direct participant in the matter being grieved.

5. In the event an inmate's claim is deemed inappropriate for review or not within the intended scope of this Regulation, the inmate may appeal that decision only to the next procedural level of review.

6. An inmate who is dissatisfied with the response to a grievance at any level may appeal the grievance to the next level, within the substantive and procedural requirements outlined herein.

- A. Administrators or employees of the institution shall automatically allow appeals without interference.
- B. An inmate's election not to sign and date this form at any level shall constitute abandonment of the claim.

7. Except as required for the initial filing of an Informal Grievance, time limits shall begin to run from the date an inmate receives a response for appeal and the date the Department's respondent receives the appeal.

8. An overdue grievance response at any level is not an automatic finding for the inmate

- A. The response must be completed, even if it is overdue.
- B. The inmate may proceed to the next grievance level, except at the Second Level, if a response is overdue.
- C. The overdue response does not count against the inmate's timeframe for an appeal if he awaits the response before initiating the appeal.

9. Inmates who participate in or utilize the Inmate Grievance Procedure shall not be subjected to retaliation, i.e. an assertion that an employee took some adverse action against an inmate for filing a grievance, except as noted in 740.09.

- A. Retaliation is a grievable issue.
- B. An unfounded claim of retaliation may be handled as an abuse of the grievance procedure.
- C. The action did not reasonably advance a legitimate correctional goal.

10. Comprehensive responses are required for inmate grievances. Statements such as "Your grievance is denied." are not acceptable. An explanation is necessary.

740.04 INFORMAL RESOLUTION

1. Inmates are expected to resolve grievable issues through discussion with their caseworker prior to initiating the grievance process, except as noted in AR 740.03, number 2, or where resolution is not possible, such as disciplinary appeals.

2. An informal resolution may be accomplished in writing or in direct consultation with the appropriate staff.

740.05 INFORMAL GRIEVANCE

1. At the Informal Level, an inmate shall file a grievance (Form DOC-3091) after failing to resolve the matter by other means.

2. Grievances should be reviewed, investigated and responded to by the inmate's assigned Caseworker with the aid of other Department staff except for:

A. Informal grievances addressing property issues should be responded to by the Property Sergeant or equivalent.

B. High Risk Prisoner (HRP) status.

- a. First Level by the Regional Deputy Director.
- b. Informal grievances that will be responded to by the Warden.

c. Second level by the Director.

C. Informal grievances addressing medical/mental health/dental issues should be responded to by the charge nurse in the institution.

D. If the person who would normally respond to a grievance is the subject of the grievance, the CCS III/AW should respond to the Informal Grievance.

3. The response to the grievance should be substantial, referencing all policies, procedures, rationale, and/or circumstances in finding for or against the inmate.
4. The inmate shall file an informal grievance within the time frames noted below:
 - A. Within six (6) months if the issue involves personal property damage or loss, personal injury, medical claims or any other tort claims, including civil rights claims.
 - B. Within ten (10) days if the issue involves any other issues within the authority and control of the Department including, but not limited to, classification, disciplinary, mail and correspondence, religious items, and food.
 - C. When a grievance cannot be filed because of circumstances beyond the inmate's control, the time will begin to start from the date in which such circumstances cease to exist.
5. An inmate should use Form DOC-3097, Grievant Statement Continuation Form, if unable to present the details of their claim in the space available on the above forms.
 - A. All documentation and factual allegations available to the inmate must be submitted at this level with the grievance.
6. All grievances submitted should also include the remedy sought by the inmate to resolve this claim.
 - A. Failure to submit a remedy will be considered an improper grievance and returned to the inmate using Form DOC-3098, Improper Grievance Memorandum.
7. If the inmate's remedy to their grievance includes monetary restitution or damages, then the inmate will get the following forms from unit staff, unit caseworker, or law libraries:
 - A. Form DOC-3026, Inmate Property Claim, which shall be completed and submitted in addition to the grievance for all property loss or damage claims.
 - B. Form DOC-3095, Administrative Claim Form, which shall be completed and submitted in addition to the grievance for all personal injury, tort, or civil rights claims.
8. Failure by the inmate to submit a proper Informal Grievance form to the Grievance Coordinator or designated employee in their absence, within the time frame noted in 740.05, number 4, shall constitute abandonment of the inmate's grievance at this, and all subsequent levels.
 - A. When overdue grievances are received, they will be logged into the OITS/NOTIS.
 - B. The grievance response Form DOC-3098 will note that the inmate exceeded the timeframe and no action will be taken.

9. If the issue raised is not grievable, the Grievance Coordinator will return the grievance to the inmate with Form 3098 noting the reason.

10. When an issue goes directly to the Warden (first level) for a decision such as disciplinary appeals, visiting denials or mail censorship, the inmate shall file an Informal Grievance form for tracking purposes.

11. Grievances alleging staff misconduct will be reviewed by the Warden and if deemed appropriate will be forwarded to the Office of the Inspector General through the OITS/NOTIS.

A. The Informal Response will reflect this action being initiated.

B. An inmate must complete all three steps of the grievance process even if his claim is being investigated.

12. The time limit for a response to the informal grievance is forty-five (45) days from the date the grievance is received by the grievance coordinator to the date returned to the inmate.

A. The inmate must file an appeal within five (5) days of receipt of the response to proceed to the next grievance level.

B. Transmission of the grievance to another institution may result in exceeding this timeframe.

740.06 FIRST LEVEL GRIEVANCE

1. A First Level Grievance (Form DOC-3093) should be reviewed, investigated and responded to by the Warden at the institution where the incident being grieved occurred, even if the Warden is the subject of the grievance.

A. The Warden may utilize any staff in the development of a grievance response.

B. First Level medical/mental health/dental issues should be responded to by the highest level of Nursing Administration at the institution (DONs I or II).

C. First Level property issues should be responded to by the Associate Warden of Operations and reviewed by the Warden.

2. At this level the inmate shall provide a signed, sworn declaration of facts that form the basis for a claim that the informal response is incorrect. This should include a list of persons, if any, who have relevant knowledge or information supporting the claim. Any additional relevant documentation should be attached at this level.

3. A First Level Grievance that does not comply with procedural guidelines shall be returned to the inmate, unprocessed, with instructions using Form DOC-3098, if applicable, for proper filing via the caseworker.

4. The time limit for a response to the inmate for the First Level grievance is forty-five (45) days from the date the grievance is received by the grievance coordinator to the date returned to inmate.

A. The inmate must file an appeal within five (5) days of receipt of the response to proceed to the next grievance level.

B. Transmission of the grievance to another institution may result in exceeding this timeframe.

740.07 SECOND LEVEL GRIEVANCE

1. A Second Level Grievance (Form DOC - 3094) should be reviewed and responded to by the:

A. DDs for security, program, religious operations, and environmental issues.

B. The Deputy Director of Support Services for fiscal and telephone issues.

C. The OMA for classification and timekeeping issues.

D. The Medical Director for medical/mental health/dental issues including medical co-pays or charges.

2. The Grievance Coordinator shall forward copies of all related documents and the appeal to the DDs for review and distribution to other Appointing Authorities and Division Heads.

3. The time limit for a response to the inmate for the Second Level grievance is sixty (60) days, not including transmittal time, from the date the grievance is received by the grievance coordinator to the date it is returned to inmate.

4. Administrators shall respond to the Second Level Grievance, specifying the decision and the reasons for the decision, and return it to the Grievance Coordinator.

740.08 REMEDIES TO GRIEVANCES

1. Grievance remedies should be determined with the goal of appropriately resolving legitimate claims at the lowest level of review possible, considering each institution's particular operational, security and safety concerns.

2. Remedies available for grievances may include, but are not limited to, the following:

A. Appropriate measures to resolve unsafe or unsanitary conditions of confinement.

B. Appropriate measures to address the violation of an inmate's constitutional, civil or statutory rights.

C. Appropriate measures to protect inmates from criminal or prohibited acts committed by Departmental employees and staff or other inmates.

- D. Appropriate measures to revise, clarify and implement written Departmental and institutional rules or procedures necessary to prevent further violations.
 - E. Appropriate measures to provide a disabled or physically impaired inmate with reasonable accommodation or reasonable modification.
 - F. Appropriate monetary reimbursement for property loss, damage, personal injury, tort, or civil rights claims arising out of an act or omission of the Department of Corrections or any of its agents, former officers, employees or contractors.
3. When deemed appropriate by the staff person rendering a decision on a grievance, a proposed monetary remedy may be submitted to the Deputy Director of Support Services who may award monetary damages at any level of the Inmate Grievance. Once approved:
- A. A Form DOC-3096, Administrative Claim Release Agreement, will be completed and submitted by the inmate on all monetary claims, except for personal property damage or loss.
 - B. A Form DOC-3027, Property Claim Release Agreement, will be completed and submitted by the inmate on all monetary claims for personal property damage or loss.
 - C. When property claims are settled informally at an institution, DOC 2027 Property Release Agreement will be completed.
4. Compensation for loss of personal property, property damage, personal injury or any other claim arising out of a tort shall not exceed five hundred (\$500.00).

740.09 ABUSE OF THE INMATE GRIEVANCE PROCEDURE

1. Inmates are encouraged to use the Grievance Procedure to resolve all addressable claims, however, they are prohibited from abusing the system by knowingly, willfully or maliciously filing frivolous or vexatious grievances, which are considered to be an abuse of the Inmate Grievance Procedure.
2. It is considered abuse of the inmate grievance procedure when an inmate files a grievance that contains, but is not limited to:
- A. A threat of serious bodily injury to a specific individual.
 - B. Specific claims or incidents previously filed by the same inmate.
 - C. More than four (4) unfounded, frivolous or vexatious grievances per month, if the current grievance is not substantial.
 - D. Filing 2 or more emergency grievances per month which are deemed not to be emergencies.

- E. Obscene, profane, and derogatory language.
 - F. Contains two or more appropriate issues.
3. If an inmate files a grievance as listed in (2), the assigned caseworker shall:
- A. Return a copy of the improper grievance to the inmate and Form DOC-3098, Improper Grievance Memorandum, noting the specific violation.
 - B. Obtain the inmate's signature on the form and sign as a witness.
 - C. Give the original to the inmate.
 - D. Return a copy to the Grievance Coordinator for inclusion in the inmate's grievance file.
 - E. If the inmate grievance alleges a threat to the safety and/or security of the institution, the grievance will be entered regardless of the content.
4. The inmate shall **not** be given additional time to re-submit the grievance in the proper form.
- A. The inmate's failure to re-submit the grievance in the proper form and **within the prescribed time frame** shall constitute abandonment.
 - B. If the timeframe has been exhausted prior to the inmate receiving Form DOC- 3098, the inmate has five (5) days from the date it was received to re-submit.
5. An inmate who satisfies the criteria contained in 740.09 section 2 above should:
- A. Be brought to the attention of the Grievance Coordinator as soon as possible.
 - B. The Grievance Coordinator should review all documentation supporting the alleged abuse to determine if abuse has occurred and forward a written recommendation to the Warden.
 - C. The Warden should review and, if warranted, forward to the DDs with a recommendation that a Notice of Charges be issued.
 - D. Only the DDs can write a Notice of Charges on the inmate if they determine an abuse of the grievance process.
 - E. The DDs will forward the Notice of Charges to the Warden for processing through the inmate disciplinary process.
 - F. A conduct violation of this nature is not a form of retaliation.

740.10 EMERGENCY GRIEVANCE PROCEDURE

1. An Emergency Grievance (Form DOC-1564) received by any staff member shall be immediately delivered to the shift supervisor no later than is reasonable and necessary to prevent serious injury or a breach of security.
2. The shift supervisor may confer with the on duty medical staff, Warden or Associate Warden and, if necessary, the DDs, to determine whether the grievance constitutes an emergency.
3. The highest-ranking staff member on duty, with the aid of an authorized Department official, shall immediately take any corrective measures necessary to prevent a substantial risk of injury or breach of security.
4. The Department official receiving the Emergency Grievance should respond to the filing inmate no later than is necessary to prevent serious injury or a breach of security.
5. In the event the inmate requests further review of a claim not deemed an emergency, the inmate may file a grievance appeal commencing at the Informal Level.
6. A copy of the emergency grievance will be forwarded to the Grievance Coordinator for entry into OITS/NOTIS for processing and tracking purposes.

740.11 INMATE TRANSFERS

1. Inmates transferred to another institution pending the resolution of a filed grievance shall have the grievance completed at the sending institution at all levels.
 - A. The receiving institution is responsible for logging in and tracking the grievance through the OITS/NOTIS.
 - B. All responses and correspondence shall be conducted via first class mail to the Grievance Coordinator at the receiving institution.
2. Timeframes do not apply if the inmate has been transferred. Grievances shall be processed as soon as practicable and timeframes shall be adhered to as closely as possible
3. If an inmate expires his sentence or leaves the Department on parole, the grievance will be finalized on the current level. No further appeal may occur.
 - A. It is the responsibility of the inmate to provide a forwarding address during the release process in order to receive a grievance response.

APPLICABILITY

1. This regulation requires an operational procedure for each institution and facility.
2. This regulation requires an audit using the attached checklist form as a guide.

REFERENCES

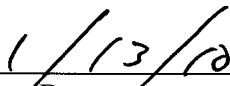
ACA Standards, 4th Edition and 2008 Supplement,
4-4284, 4-4344, 4-4394, 4-4429, 4-4429-1, 4-4494, 4-4282, 4-4446

ATTACHMENTS

DOC Form 3065, Inmate Grievance Audit Questions



Howard Skolnik, Director



Date

INMATE GRIEVANCE AUDIT QUESTIONS

1. Are there existing locked boxes throughout the institution that are accessible to all inmates?
2. Who has access to the keys to these boxes?
3. Is this procedure available to inmates in the institution?
4. Are the grievances being responded to by the appropriate party at each level?
5. Are grievances responded to within the time frame allowed?
6. Are grievance files maintained separately and in alphabetical order?
7. Are all threats of abuse, harassment or misconduct referred to the IG's office?
 - A. Does the inmate receive a response to this effect?
8. Are grievance responses addressing the issue of complaint in a thorough manner in order to resolve each grievance at the lowest level?
9. Is form DOC-3098 being utilized properly when an inmate is not complying with the AR?
10. Are all informal grievances being entered into the OITS?
11. How are pending grievances being followed up on when an inmate transfers to another institution?
12. Is an audit performed at the institution with any frequency to determine outstanding grievances?
13. Do grievances regarding property claims contain all the necessary paperwork? Are legitimate claims resolved in a timely manner?
14. Were emergency grievances handled in an expeditious, professional manner?
15. Are grievance files maintained at the institution according to policy?