

**NEVADA DEPARTMENT OF
CORRECTIONS**

INMATE DISCIPLINARY PROCESS



1. When conduct requires an inmate be transferred from one institution or facility to another, any pending disciplinary cases should be completed prior to the transfer.

A. If circumstances are such that the transfer must proceed prior to completion of the disciplinary process, the sending institution shall prepare the Notice of Charges and the receiving institution shall complete the disciplinary process.

B. The receiving institution will review the inmate's status within three (3) working days of receipt.

C. Copies of the completed disciplinary will be returned to the sending institution.

2. The Associate Warden (AW)/designee at the sending institution or facility is responsible for insuring that the pending case is properly transferred within 30 days from the date of transfer.

APPLICABILITY

1. This regulation requires an operational procedure for the Department and all institutions/facilities.

2. The regulation requires an annual audit.

REFERENCES

ACA Standards, 4th Edition, and 2008 Supplement

4-4229	4-4246	4-4231	4-4244	4-4228	4-4353	4-4230	4-4234
4-4239	4-4236	4-4237	4-4245	4-4238	4-4242	4-4240	4-4248
4-4243	4-4235	4-4233	4-4226	4-4227	4-4281	4-4477	4-4281


Howard Skolnik, Director

10/26/09
Date

NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
707

INMATE DISCIPLINARY PROCESS
(TEMPORARY)

Supersedes: AR 707 (07/14/08)
Effective Date: 11/23/09

AUTHORITY: NRS 209.246

RESPONSIBILITY:

1. An Associate Warden is responsible for the management of the inmate disciplinary process.
2. All staff and inmates are responsible to have knowledge of and to comply with this procedure.

707.01 DEPARTMENT POLICY

1. All inmates committed (including safe keepers) to the Department shall be subject to disciplinary action for violations of rules and regulations.
2. Disciplinary action should be taken as soon after the misconduct as is practicable.
3. Discipline should be applied in an impartial and consistent manner.
4. Corporal punishment or inhumane treatment is prohibited.
5. Prison disciplinary proceedings are an administrative process, unrelated to and not bound by the rules for criminal procedure, civil trials, administrative codes or procedures.
6. Upon entry, all inmates shall be issued, and required to sign for, a copy of the inmate disciplinary manual and AR 707 Inmate Disciplinary Process.
 - A. Signed acknowledgment will be maintained in the inmate's I-file.
 - B. When a literacy or language problem prevents an inmate from understanding the manual, a staff member or translator will assist the inmate in understanding the rules.
7. The manual will be available to all inmates. Availability is satisfied if a copy is kept in the institutional law library or in the living units for those facilities without a law library.
8. All inmates are assumed to have notice of this manual.

- MJ51 - Compromising Staff, Volunteer or Vendor: Conduct that includes, but is not limited to, bribery, extortion, sexual conduct, or any other behavior designed to violate the safety and security of an institution and/or obtain favorable treatment. (Class A)
 - MJ52 - Refusal to complete or participate in a mandatory, structured program. (Class C)
 - MJ53 - Possession, introduction, or sales of any narcotics, drugs, alcohol, or other intoxicants or possession of materials/items suitable for such manufacture and/or use. (Class A)
 - MJ54 - Use of any narcotics, drugs, alcohol, or other intoxicants. (Class B)
 - MJ55 - Possession, introduction, or sales of any tobacco product; or possession of materials/items suitable for such manufacture and/or use. (Class A)
 - MJ56 - Tattooing: tattooing and/or body piercing oneself or another; or possession of tattooing and/or body piercing equipment. (Class C)
6. Work Release Violations (All Class C)
- W1 - Failure to comply with travel arrangements outside the facility.
 - W2 - Failure to report to the work assignment contacts in the community as specified and agreed upon in the release plan.
 - W3 - Failure to remain in the particular area designated in the release plan.
 - W4 - Operation of a motor vehicle, unless such operation is a condition of the job and the Department prior authorization was approved.
 - W7 - Failure to return to the facility on or before the time specified in the schedule of the release plan. This includes leaving or hiding from supervision or custody.
 - W8 - Failure to report an incident that delays the inmate's return to the facility.
 - W9 - Failure to complete or participate in a structured program.
 - W10 - Performing work for private persons that are not authorized by the Department.
 - W11 - Any violation or attempt to violate rules or conditions of the work program contract.
 - W13 - Possession of coin, currency, checks, money orders or other negotiable instruments in excess of the amount authorized by regulation.

707.03 INMATE TRANSFERS

9. Within the prison disciplinary process, an inmate has access to three procedures:

A. At least 24 hours prior to any formal hearing before an impartial Disciplinary Hearing Officer a Notice of Charges will be served.

B. A qualified opportunity to call witnesses with substantive knowledge of issues and present documentary evidence provided that to do so will not jeopardize institutional security or correctional goals.

C. A written statement by the Disciplinary Hearing Officer as to the evidence relied on and the reasons for the disciplinary findings.

10. Reliance on any published standard, the use of mandatory language, if such exists, or the creation or procedures related to the conduct of the disciplinary process, including but not limited to timeframes, witnesses or appeals is solely for the purpose of providing guidance for employees and shall be considered representative of the manner in which the Department has chosen to exercise its discretion in such matters.

A. The failure of any employee of the Department to follow any procedure shall not result in any mandatory outcome, e.g., dismissal of charges, but shall be one of many factors to be considered in exercising discretion as to the outcome of any violation.

11. Any disciplinary case may be continued so that the Preliminary Hearing Officer or the Disciplinary Hearing Officer may obtain guidance from the Attorney General's Office concerning any matter in the inmate disciplinary process.

A. Inmates do not have any right or privilege to request or participate in obtaining guidance from the Attorney General's Office.

B. The guidance may be sought either in writing or verbally.

C. Such requests for guidance shall be made only if there is confusion as to the application of the guidelines set forth in this Code.

D. The Office of the Attorney General shall not be asked to render any opinion as to the guilt or innocence of an inmate facing disciplinary charges.

707.02 DISCIPLINARY OFFENSES

NOTE: Deleted or additional infractions will not lead to the renumbering of charges.

1. All offenses listed below in section 707.02.3 through 6, will also include an attempt or conspiracy to commit that violation.

2. Work Release violations may only be charged if the inmate has minimum status.

3. Minor Infractions (All Class E Violations)

• MJ33 - Bribery: Giving or offering a bribe to any person. (Class B)

• MJ34 - Trading, bartering, lending or otherwise engaging in any personal transactions when such transaction has not been specifically authorized. (Class C)

• MJ35 - Counterfeiting, forging or making an unauthorized reproduction of any document. (Class B)

• MJ39 - Running from a correctional employee when ordered to halt. (Class C)

• MJ40 - Propelling any substance toward any person that strikes them or has the potential to strike them. (Class A)

• MJ41 - Gathering around, blocking, or impeding any correctional employee or visitor, in a threatening or intimidating manner and exhibiting conduct, which causes the person to fear for his safety. (Class A)

• MJ42 - Unauthorized contact, including harassment, of any on-duty or off-duty correctional employee or other private citizen. (Class A)

• MJ44 - Failure to submit to a drug and/or alcohol screening. (Class A)

• MJ46 - The possession or use of a tape recording device. (Class C)

• MJ47 - Escape: The departure or absence from custody of a person who is imprisoned, before he is entitled to his liberty by the process of law. This violation shall be charged in cases of escape from assignment of medium custody or above, or escapes from any custody where weapons, force, violence, the taking of hostages or injury to others was involved. (Class A)

• MJ48 - Any violation of the Rules of Court, contempt of court, submission of forged or otherwise false documents, submissions of false statements, violations of Rules of Civil Procedure, Criminal Procedure or Appellate Procedure and/or receiving sanctions and/or warnings for any such actions from any court. Although not necessary for disciplinary purposes, any Order from any court detailing such action shall be sufficient evidence for disciplinary purposes. (Class C)

• MJ49 - Possession of any confidential prison regulation. Any prison regulation, which is not specifically delineated as accessible to inmates, is considered confidential. A prison regulation includes, but not limited to, Administrative Regulations, Institutional Procedures, Emergency Response Regulations, and Post Orders. (Class A)

• MJ50 - Sexual Harassment: Conduct that is sexually abusive or offensive to any person and that may include, but is not limited to, suggestive language directed to another, or as an aside; unwanted or inappropriate touching; exposing one's self; performing a sex act with knowledge that it will be observed by another; displaying sexually provocative or explicit materials/drawings. (Class A)

- MJ16 - Murder: The unlawful killing of another human being with malice aforethought, either expressed or implied, and all lesser included offenses. (Class A)
- MJ17 - Receiving Stolen Property: One must receive stolen property, know it is stolen, and intend to deprive the owner of it. (Class C)
- MJ18 - Robbery: A larceny where the taking of the property must be from the person of the victim or in his presence and the taking must be by means of violence or intimidation. (Class A)
- MJ19 - Sexual Assault: Subjecting another person to any sexual act against their will and/or understanding. (Class A)
- MJ21 - Theft: the taking of property without the owner's consent. (Class C)
- MJ22 - Tampering with any locking device. (Class B)
- MJ23 - Intentionally destroying, altering or damaging the property of another or state property with a replacement value equal to or greater than \$50. (Class C)
- MJ24 - Adulteration of any food or drink. (Class A)
- MJ25 - Threats: issuing a threat, either verbally, by gesture or in a written statement to or about any person. (Class B)
- MJ26 - Possession of contraband, including items that present a threat to safety and security of the institutions, excluding drugs or drug paraphernalia. (Class A)
- MJ27 - Rioting or inciting others to riot. (Class A)
- MJ28 - Organizing, encouraging or participating in a work stoppage or other disruptive demonstration or practice. (Class B)
- MJ29 - Charging or collecting a fee or favors for services as a counsel-substitute, legal assistant or "writ writer". (Class C)
- MJ30 - Sexually stimulating activities, including but not limited to caressing, kissing or fondling, except as authorized by Departmental visitation regulations. (Class A)
- MJ31 - The unauthorized or inappropriate use of telephone, mail, computer, state equipment, or supplies. (Class A)
- MJ32 - Being in an unauthorized area, or hiding on the prison grounds or hiding at a place of assignment or classification. (Class B)

- M1 - Purchasing, selling, trading, giving, receiving or possessing any item of property, with a value less than \$50, in a manner other than that which is authorized by Administrative Regulation 711.
 - M3 - Possession of unauthorized items with a value less than \$25.00.
 - M4 - Roughhouse, horseplay or "gunsling".
 - M5 - Failure to keep one's person or assigned area neat and clean.
 - M6 - Failure to perform work as instructed or a failure to attend work, school or other assignment.
 - M7 - Unauthorized use of institutional supplies, tools, equipment or machinery.
 - M10 - Failure to produce inmate identification card upon request of correctional employee.
4. General Violations (All Class D Infractions)
- G1 - Disobedience of an order from any correctional employee or anyone who has the authority to supervise inmates in work or other special assignments.
 - G2 - Unauthorized contact of any on- or off-duty correctional employee or member of the correctional employee's family; or any unwanted contact with any private citizen, not amounting to harassment or threats.
 - G3 - Organizing, participating in, operating any gambling game or betting pool, or possessing any equipment used for gambling or betting purposes.
 - G4 - Intentionally destroying, altering or damaging property of another or state property which has a replacement value less than \$50.00.
 - G5 - Self mutilation.
 - G6 - Fighting or challenging another to fight.
 - G7 - Issuing a brass slip with knowledge that it is not covered by sufficient funds.
 - G8 - Possession of another inmate's identification card.
 - G9 - Abusive language or actions toward another person.
 - G10 - Tampering with evidence or influencing a witness involved in any disciplinary process, not amounting to threats.

- G12 - Failure to appear at the proper time and place for court or interfering with the court.
- G13 - Cutting into line.
- G14 - Failure to follow rules and regulations.
- G15 - Presence in areas identified as off limits to inmates by posted regulations or signs that identify areas that are restricted, not amounting to an attempted escape.
- G18 - Delaying, hindering or interfering with a correctional employee in the performance of his duties.
- G20 - Preparing, soliciting, or giving false or misleading information to or about a staff member and representing the statement as fact.

NOTE:

- Cannot be plea-bargained or sanction bargained.

- G21 - Possession of gang materials including, but not limited to, jewelry, stationary, emblems and patches.
- G24 - Possession of prescribed medication that is not a controlled substance without the approval of the proper authority.
- G25 - Purchasing, selling, trading, giving, receiving or possessing any item of property, with a value equal to or greater than \$50.00, in a manner other than that which is authorized by Administrative Regulation 711.
- G27 Abuse of inmate grievance process.

NOTE:

- This violation may be charged by the DDO.
- Cannot be plea-bargained or sanction bargained.

5. Major Violations

- MJ1 - Arson: Setting a fire with the potential of causing damage or injury to persons or property. (Class A)
- MJ2 - Assault: unlawful attempt coupled with present ability to commit a violent injury on the person of another. (Class A)
- MJ3 - Battery: any willful use of force or violence upon the person of another. (Class A)

- MJ4 Burglary: The entering of a building, structure or vehicle with the intent to commit crime therein. (Class B)
- MJ5 - Embezzlement: The fraudulent conversion of the property of another by one who is already in lawful possession of it. (Class B)
- MJ6 - Escape: The departure or absence from custody of a person who is imprisoned, before he is entitled to his liberty by the process of law. This violation shall be charged in cases of walk-a-ways from assignments of minimum or community custody where no weapons, force or injury to others was involved. (Class B)
- MJ7 - Extortion: The obtaining of property or money from another by wrongful use of actual or threatened force, violence or fear. (Class A)
- MJ8 - False Imprisonment: The unlawful violation of the personal liberty of another, which consists of confinement or detention without sufficient legal authority. (Class A)
- MJ9 - False Pretenses: A false representation of a material present or past fact, which causes the victim to pass title to his property to the wrongdoer who knows his representation to be false and intends thereby to defraud the victim. (Class B)
- MJ10 - Security Threat Group Activities: A validated Security Threat Group member who has engaged or is engaging in criminal activities, threatens the order and security of the institution and/or promotes racism. (Class A).

NOTE:

- Only an AW or above may charge the inmate with this violation.
- Cannot be plea-bargained or sanction bargained.

- MJ11 - Kidnapping: The unlawful taking and carrying away of a human being by force or against his will. (Class A)
- MJ12 - Larceny: The trespassory taking and carrying away of personal property of another with intent to steal it. (Class C)
- MJ13 - Larceny by Trick: Obtaining possession of another's property by falsehood with the intent to convert it for his own use. (Class C)
- MJ14 - Manslaughter: The unlawful killing of another human being without malice either expressed or implied. It may be either voluntarily, in the heat of passion, or involuntarily. (Class A)
- MJ15 - Mayhem: The infliction of an injury, which disfigures, disables, or dismembers another. (Class A)

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?

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

REFERENCES

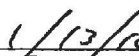
ACA Standards, 4th Edition and 2008 Supplement,
4-4284, 4-4344, 4-4394, 4-4429, 4-4429-1, 4-4494, 4-4282, 4-4446

ATTACHMENTS

DOC Form 3065, Inmate Grievance Audit Questions



Howard Skolnik, Director



Date

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.

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.

- 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

- 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.

- 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.