



*State of North Carolina
Department of Correction
Division of Prisons*

Chapter: G
Section: .0300
Title: **Administrative Remedy
Procedure**
Issue Date: 09/24/07
Supersedes: 05/01/98

POLICY & PROCEDURES

.0301 PURPOSE

- (a) The policy of the North Carolina Department of Correction is to provide inmates an opportunity for administrative settlement of legitimate grievances. Most grievances can be resolved quickly through informal communication with responsible authorities at the facility in which the problem arose. An inmate should be encouraged to use this method prior to the initiation of a formal grievance. When this method is not possible, the Department of Correction seeks to reduce tension and provide a stable atmosphere by providing formal channels of communication of grievances.
- (b) A grievance is a written complaint by an inmate on the inmate's own behalf concerning an action, incident, policy, or condition within the unit or institution or within the Division of Prisons as a whole.
- (c) The Administrative Remedy Procedure shall afford a successful grievant a meaningful remedy to include but not be limited to, an order requiring that specific action be taken, modification of Division of Prisons policy, restoration or restitution for personal property, and such other remedies that will meaningfully resolve the grievance presented.
- (d) Employees who intentionally obstruct the grievance process shall be subject to disciplinary action.

.0302 ACCESSIBILITY

- (a) Communication of the Procedure:
 - (1) A standard written notification of the Administrative Remedy Procedure shall be given to each inmate as a part of orientation at the Diagnostic Center. This notification shall instruct the inmate as to how and where to obtain a grievance Form DC-410. The notification shall also be available at each facility within the Division of Prisons. In addition, as a part of orientation at the Diagnostic Center, each inmate shall have an oral explanation of the procedure and shall have the opportunity to ask questions regarding this procedure.
 - (2) Any inmate who is incapable of understanding this procedure or completing the grievance form may request assistance. Requested assistance will be provided by staff designated by the Facility Head.

- (3) Inmates may obtain assistance in completing their grievances from other inmates where classification and housing assignments permits.
- (b) Availability of the Procedure:
 - (1) A copy of the Administrative Remedy Procedure shall be readily available to all inmates and staff for their information and reviews. It shall be posted in conspicuous locations throughout the unit or institution and shall be kept current in all libraries.
 - (2) The Procedure shall be available to all inmates, regardless of any disciplinary, classification or other administrative decisions affecting the inmate grievant.

.0303 REPRISALS

- (a) No reprisals shall be taken against any inmate or staff member for a good faith use of or participation in the grievance procedure. The prohibition against reprisals should not be construed to prohibit discipline of inmates who do not use the system in good faith, in accordance with Rule .0306(b)(5)
- (b) If an inmate believes that a reprisal has occurred, a grievance stating the reprisal action may be filed or the inmate may submit written comments to the Secretary.
- (c) If a staff member believes that a reprisal has occurred as a result of the employee's participation in or assistance with the grievance procedure, a written complaint stating the nature of the reprisal taken against the employee may be filed with the chain of command.

.0304 SUBMISSION OF GRIEVANCES

- (a) Any inmate in the custody of the Department of Correction may submit a written grievance on Form DC-410.
- (b) An inmate may submit a new grievance once the initial grievance has completed Step 2 review or has been resolved.
- (c) If more than one inmate files a grievance concerning the application of general policies or practices, or acts arising out of the same incident, these grievances will be processed as a group. Each grievance shall be logged in individually; however, the same response will be provided to each grievant.
- (d) Grievances of an emergency nature will be handled in accordance with Rule .0308.

.0305 SCREENING OFFICER

Facility Heads will appoint one or more screening officers to review grievances and decide whether they should be accepted or rejected under the criteria set forth in Rules .0304 and .0306. Facility Heads may designate screening officers or screen grievances themselves. The appointment of fair and knowledgeable screening officers will insure compliance with the grievance procedure and facilitate mediation of grievances at the unit level. No employee who appears to be involved in a grievance shall participate in any capacity in the resolution process, except as a witness where necessary.

.0306 REJECTION OF GRIEVANCES

- (a) A grievance filed pursuant to these regulations shall be rejected at any level if it:
 - (1) Seeks to challenge matters already decided by a State or Federal court;
 - (2) Challenges a Parole Commission decision;
 - (3) Challenges a disciplinary action; or
 - (4) Challenges matters beyond the control of the Department.
- (b) In accordance with Rule .0310, a grievance may be rejected at any level if:
 - (1) The grievance concerns an action not yet taken or a decision which has not been made.
 - (2) There has been a time lapse of more than one year between the event and submission of the grievance.
 - (3) The inmate has requested a remedy for another inmate.
 - (4) The inmate has requested a remedy for more than one incident (see Rule .0304).
 - (5) The inmate's grievance directs toward any person language that is generally considered profane, vulgar, abusive, contemptuous, or threatening. Inmates who violate this rule may be subject to disciplinary action. The grievance may be resubmitted for processing once the objectionable language has been eliminated.
 - (6) Rules and procedures established herein have not been followed.

.0307 TIME LIMITS

- (a) From filing to final disposition, all grievances shall be processed within ninety (90) days. For purpose of counting days under the grievance procedure, all references to days shall be interpreted to mean calendar days.

- (b) The inmate who submits the grievance will be notified of acceptance or rejection in writing upon the appropriate form, within three days after submission of the grievance,
- (c) If, at any step of the procedure, a response is not made within the prescribed time limits, the grievance will be forwarded to the next step for review.
- (d) An appeal shall be filed within twenty-four (24) hours or the right to appeal shall be waived. The person to whom the appeal is directed has the discretion to accept a late appeal in the event of extenuating circumstances. The twenty-four hours shall be counted as day one of the next level in the appeal process.
- (e) Persons responsible for transmitting grievances shall utilize the quickest means of transmittal available. The postal service and the state courier shall be used in appropriate cases.
- (f) At each step of grievance review (see Rule 0310), the time limits are as follows:
 - (1) At Step 1, formal written response to the inmate shall be made within fifteen (15) days from the date of acceptance of the grievance.
 - (2) At Step 2, formal written response to the inmate shall be made within twenty (20) days from the date of request for Step 2 review.
 - (3) At Step 3, the Inmate Grievance Examiner (IGE) shall forward the decision to the Secretary of Correction within twenty (20) days from the date of the inmate's appeal. Within twenty days from the date of transmittal of the DC-410 from the IGE, the Director of Prisons shall forward a written response to the Secretary.
 - (4) The final decision of the Secretary must be delivered to the inmate within thirty (30) days of the transmittal of the decision from the IGE.

.0308 EMERGENCY GRIEVANCES

- (a) Emergency grievances shall be defined as matters which present a substantial risk of physical injury or other serious and irreparable harm to the grievant if regular time limits are followed. Emergency grievances shall be forwarded immediately, without substantive review, to the Facility Head, or to the level at which corrective action can be taken.
- (b) Any inmate who is in need of urgent medical care may present himself to a member of the medical or custodial staff, who shall handle the matter according to emergency health care procedures set out in the Health Care Manual. If an inmate fears for his personal safety, he may contact the officer-in-charge or any other custodial official. Any request for protective custody will be handled in accordance with departmental regulations.
- (c) Matters relating to administrative transfers, time computations, disputes, and family illness or death are not to be treated as emergencies for purposes of this procedure, but

shall be handled expeditiously and compassionately by the Facility Head or designee where appropriate.

- (d) For emergency situations other than medical or protective custody, an inmate may submit the grievance directly to the screening officer or the officer-in-charge, who shall forward the grievance to the level at which corrective action may be taken. The request shall be handled as expeditiously as possible, and shall be reviewed by the appropriate regional director.

.0309 CONFIDENTIAL GRIEVANCES

If an inmate is of the opinion that a grievance is a confidential nature, his grievance may be filed directly with the Director of Prisons and mailed as legal mail. The inmate must clearly explain the nature of the complaint and the reasons for not following the regular grievance procedure. If the Director determines that the grievance is not of a confidential nature, the grievance shall be returned to the inmate with instructions to submit it in accordance with the procedure set forth in Rule .0310. After consideration of the grievance and determination that it is of a confidential nature, the Director shall order any necessary investigation. If the investigation indicates that action should be taken, the Director shall cause the appropriate steps to be taken to resolve the grievance.

.0310 GRIEVANCE REVIEW PROCEDURE

- (a) Step 1 Review.
- (1) Any aggrieved inmate may submit a written grievance On Form DC-410.
 - (2) Upon completion of the form, the inmate may submit it to the Facility Head, designated screening officer, or any other staff member. Grievances may be transmitted by mail or hand delivery.
 - (3) An inmate who seeks to file a grievance on general policies or practices may solicit comments on the matter from other inmates. Such solicitation for inmate comment will be permitted provided it does not interfere with the security and orderly operation of the unit or institution. Such comments must be submitted with the grievance when it is filed.
 - (4) The screening officer shall review the grievance and decide whether it should be accepted, rejected, or returned under the criteria set forth in these regulations. This screening shall be completed within three (3) days of the filing of the grievance.
 - (5) If the screening officer determines that the complaint can be considered under the procedure, the officer may forward it to the staff member whom the officer believes can best provide information or relief. The staff member will prepare a written response along with supporting documentation if any. The response will

be returned to the screening officer. The screening officer or designated staff member will meet with the inmate to explain the response and attempt to resolve the grievance. If the screening officer meets with the inmate, the officer shall report to the Facility Head or designee. The Facility Head or designee will complete the formal response to the inmate within fifteen (15) days from the date of acceptance of the grievance.

- (6) If the inmate submits a grievance in violation of Rule .0304(b), the screening officer may return the grievance to the inmate with written notification on the DC-410 that it may be resubmitted when the current grievance in process completes Step 2.
 - (7) If the screening officer rejects the grievance per Rule .0306, the inmate will be informed of the rejection reason in writing on the DC-410. A copy of all rejected grievances will be reviewed, initialed, and filed by the Facility Head. The Facility Head may determine that the grievance should be accepted. Under this condition, the inmate grievant will be notified in writing and provided the opportunity to resubmit the grievance on a new DC-410, in accordance with Rule .0310. If the inmate declines this opportunity, this fact shall be noted on the Facility Head's copy of the original rejected DC-410.
- (b) Step 2 Review.
- (1) If the inmate is not satisfied with the decision reached at Step 1, he or she may request relief from the Facility Head. This request for Step 2 review must be made by the inmate in writing on Form DC-410 and submitted to the Facility Head, designee, or screening officer upon notification and explanation of the decision reached at Step 1. The completed Form DC-410 shall be submitted to the Facility Head.
 - (2) The Facility Head may investigate the grievance or may assign a staff member to investigate it. If an investigator is assigned, the investigator shall accumulate records gathered at Step 1 and complete the investigation within fifteen (15) days after assignment by the Facility Head. The investigator, if one is used, shall submit the findings in writing with relevant records to the Facility Head.
 - (3) After completing the investigation or after receiving the report of the investigator, the Facility Head shall complete Form DC-410 indicating the decision and reasons for the decision. All relevant records gathered at Step 1 and Step 2 shall be maintained and filed. The Facility Head shall complete the written response and assure that it is delivered to the inmate within twenty (20) days from the date of request for Step 2 review. The Facility Head may explain the decision to the inmate in an attempt to resolve the grievance. If necessary, another appropriate person such as a screening officer or the Facility Head, may be designated to perform this function.

- (4) If the grievance alleges inappropriate action on the part of the Facility Head, the grievance will be forwarded to the Regional Director for completion of the Step 2 review.
- (c) Step 3 Review.
- (1) If the inmate is not satisfied with the decision reached at Step 2, he or she may appeal to the Secretary of Correction through the Inmate Grievance Examiner (IGE). This appeal must be made in writing on form DC-410 within twenty-four (24) hours of notification of the decision and explanation of the decision reached at Step 2. If the inmate appeals, the unit screening officer shall immediately forward the completed Form DC-410 to the Executive Director of the Grievance Resolution Board by postage mail.
 - (2) The Executive Director of the Grievance Resolution Board or his or her designee will sign the form and indicate the date of receipt. The Executive Director may serve as one of the Inmate Grievance Examiners. The Inmate Grievance Examiners shall review all grievances that are assigned to them. This review shall be limited to matters brought forward in the grievance and the Department's responses.
 - (3) In reviewing a grievance, the IGE may conduct an independent investigation, but the investigation will be limited to specific issues brought forward in the grievance. The IGE may rely on any investigations already completed. In investigating the grievance, the IGE shall attempt to resolve the grievance through mediation. The IGE shall have access to inmates, staff, facilities and records relevant to the grievance.
 - (4) The IGE will order such relief as is appropriate or deny the grievance. The IGE shall forward any order for relief on Form DC-410 to the Secretary of Correction within twenty (20) days from the date of the inmate's appeal from Step 2. Simultaneously, a copy of the form DC-410 reflecting the decision shall be forwarded to the Director of Prisons.
 - (5) The Director of Prisons or his or her designee shall review the grievance and may make comments to the Secretary of Correction. The Director of Prisons' comments will be forwarded to the Secretary within twenty (20) days from the date of transmittal of Form DC-410 from the Inmate Grievance Examiner. The Secretary shall review the Director of Prisons' comments and then approve the decision of the IGE or make written findings that the relief ordered is not appropriate. If it is determined that the relief ordered is not appropriate, a written explanation for the findings must be given and an alternative order for relief must be made. The Secretary's final decision will be delivered to the inmate by the IGE, with a copy to the Director of Prisons, within thirty (30) days of transmittal of the decision from the IGE.

- (6) The decision by the IGE or a modification by the Secretary of Correction shall constitute the final step of the Administrative Remedy Procedure.
- (d) If at any step of the procedure, the inmate refuses to sign the DC-410 indicating his/her desire to appeal, the DC-410 will automatically be forwarded to the next step in the Administrative Remedy Procedure.

.0311 TRANSFERS DURING GRIEVANCE PROCESS

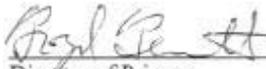
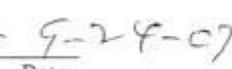
- (a) If an inmate who has filed a grievance is transferred to another Division of Prisons facility while his grievance is being considered at Step 1, the Facility Head at the sending facility will assure that review at Step 1 is completed and will forward the grievance to the Facility Head or institution head at the receiving unit for further processing.
- (b) If an inmate is transferred during the period of Step 2 review, the Facility Head at the sending facility will assure that when review is completed at Step 2, the grievance is immediately sent to the Facility Head or institution head at the receiving unit for further processing.
- (c) If an inmate who has filed a grievance is no longer in the custody of the Division of Prisons or is otherwise unavailable, the reviewing authority shall complete review at the current step. Processing shall then be considered complete and the Form DC-410 will be distributed appropriately. Grievances not fully processed due to the unavailability of the inmate may be refilled upon the inmate's return.

.0312 RECORD MAINTENANCE AND CONFIDENTIALITY

- (a) Records regarding the filing and disposition of grievances shall be collected and maintained systematically. Summaries of grievances appealed to Step 3 shall be submitted quarterly to the Grievance Resolution Board by the Executive Director. Copies of each filed grievance shall be maintained for a minimum of three years after final disposition.
- (b) No copies of grievances shall be placed in an inmate's official facility or central file.
- (c) Employees of the Department of Correction and the Inmate Grievance Examiners that are participating in the disposition of grievance shall have access to all relevant records developed by the Department of Correction.
- (d) Prison files and records gathered in the Administrative Remedy Procedure other than official responses contained on Form DC-410, and the final response to the inmate at Step 3 are confidential, and will not be released to inmates or any other unauthorized persons. Such records will not be discussed with inmates or unauthorized persons.

.0313 GRIEVANCE RESOLUTION BOARD

- (a) Appointment. The Governor shall appoint a Grievance Resolution Board to assist in implementation of this procedure. The Board shall consist of five (5) members who will serve terms of four years. Three (3) members of the Board shall be attorneys selected from a list of ten (10) persons recommended by the Council of the North Carolina State Bar. The two (2) remaining members shall be knowledgeable and experienced in one or more fields under the jurisdiction of the Secretary of Correction.
- (b) Duties. After consultation with the Secretary, the Board shall appoint an Executive Director and Grievance Examiners who serve at its pleasure. The Board shall review the Administrative Remedy Procedure, meet at least quarterly, and perform those functions assigned to it by the Governor. In addition, the Secretary of Correction may request that the Board investigate matters involving broad policy concerns and hold fact-finding hearings to consider the matters presented for investigation. In no event shall such a request by the Secretary result in a delay of the resolution of an inmate's grievance within the ninety (90) days.
- (c) Procedure Review. The Board shall evaluate the Administrative Remedy Procedure at least quarterly. The Board shall accept comments on the grievance procedure from staff and inmates.
- (d) These comments should include perceptions regarding the effectiveness and credibility of the procedure. All evaluations of the procedure shall be reviewed by the Secretary of Correction.

 
Director of Prisons Date

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