

STATE OF RHODE ISLAND  
DEPARTMENT OF CORRECTIONS  
40 HOWARD AVENUE  
CRANSTON, RHODE ISLAND

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In the Matter of the Petition of  
Jamie A. Barriera for a  
Declaratory Ruling

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RIDOC2024PDR003

**DECISION**

**Introduction**

On March 12, 2024, the Department of Corrections (“Department”) received Petitioner’s *Petition for Declaratory Ruling* (“Petition,” attached hereto as Exhibit A.) In the Petition, the Petitioner requests that the Department issue a “declaratory order which states in what manner RIDOC policy 13.10-5 applies to me, insofar as being allowed or prohibited from having another inmate assist me in writing out a grievance, in which I then file on my own.” *Exhibit A.*

In his Petition, Petitioner sets forth that he recently filed a grievance in which he asked “another, much more knowledgeable inmate to assist [him] in writing out said grievance.” *Id.* Petitioner’s justification for asking another inmate for assistance was that he “was unsure about what to write, how to go about adding all pertinent information, while excluding a whole lot of emotion.” *Id.* Petitioner asserts in his

Petition that while he “asked another inmate to assist [him] in writing the grievance, it was [his] issue solely, and it was [him] alone who filed the grievance[.]” *Id.*

On or about March 8<sup>th</sup>, 2024, Petitioner received correspondence from the Department Grievance Coordinator regarding his grievance. Petitioner did not attach a copy of the letter to his Petition but sets forth that the letter “accus[ed] [him] of trying to circumvent the stages of the grievance process, simply because another inmate assisted [him] in writing the grievance.” *Id.* Petitioner also sets forth that the Department’s grievance policy says that “special provisions are made to ensure access for inmates with a language barrier, disability, or impairment. Inmates may contact the counseling staff in their facility for such assistance.” *Id.* Petitioner alleges that he does not meet the criteria to receive assistance from a counselor, but he fails to set forth any rationale for why he does not meet the criteria for assistance from the Department’s counseling staff. *Id.*

After receiving the Grievance Coordinator’s letter, the Petitioner submitted the Petition currently at issue.

### Issue

Whether the Department shall issue a declaratory order, decline to issue an order, or schedule the matter for further consideration.

### Discussion

The applicable law regarding petitions for declaratory orders in the administrative law context begins with R.I. Gen. Laws § 42-35-8(a), which states: “[a] person may petition an agency for a declaratory order that interprets or applies

a statute administered by the agency or states whether, or in what manner, a rule, guidance document, or order issued by the agency applies to the petitioner.” Additionally, R.I. Gen. Laws § 42-35-8(c) provides: “[n]ot later than sixty (60) days after receipt of a petition under subsection (a), an agency shall issue a declaratory order in response to the petition, decline to issue the order, or schedule the matter for further consideration.” If an agency declines to issue a declaratory order, the decision must be in a record and must include a brief statement of the reasons for declining. An agency decision to decline to issue a declaratory order is subject to judicial review for abuse of discretion.

The Petitioner has not established that the Petition requests the interpretation of a statute, rule, guidance document, or order consistent with the letter and spirit of R.I. Gen. Laws § 42-35-8(a). The Petitioner is not requesting an interpretation of a statute, but rather the interpretation of an internal agency policy, specifically, the Department’s Inmate Grievance Policy, 13-10-5 DOC (“Grievance Policy”). This internal agency policy is not an order, rule, or guidance document under the Administrative Procedures Act (“APA”). An order within the context of the APA is “the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of a contested case.” R.I. Gen. Laws § 42-35-1(13). The Department’s Grievance Policy is not an order as it does not constitute a final disposition of a “contested case.” Furthermore, the Department’s grievance decisions, like the Department’s classification and discipline decisions, pertain to the Department Director’s discretion to make and promulgate necessary

policies that pertain to the care and custody of prisoners committed to the correctional facilities. As a result, grievance decisions are not considered “contested cases” under the APA. *See L’Heureux v. State Department of Corrections*, 708 A.2d 549, 551 (R.I. 1998) (explaining that disciplinary and classification decisions rendered by officials of the ACI are not contested cases within the meaning of the APA). Petitioner, by asking the Department for a declaratory order, is inappropriately attempting to convert the grievance process into a contested case appealable to the Superior Court for review under the APA.

Moreover, the Department’s Grievance Policy is neither a rule nor guidance document. A rule under the APA, is “the whole or a part of an agency statement of general applicability that implements, interprets, or prescribes law or policy or the organization, procedure, or practice requirements of an agency and has the force of law.” R.I. Gen. Laws § 42-35-1(19). The term does not include “[a] statement that concerns only the internal management of an agency and which does not affect private rights or procedures available to the public.” R.I. Gen. Laws § 42-35-1(19)(i). A guidance document is “a record of general applicability developed by an agency which lacks the force of law but states the agency’s current approach to, or interpretation of, law or describes how and when the agency will exercise discretionary functions.” R.I. Gen. Laws § 42-35-1(9). Similar to a rule, the term guidance document does not include records that concern only the internal management of an agency and which do not affect private rights or procedures available to the public. *See id.* (“The term does not include records described in

subdivisions (19)(i)").

The Department's Grievance Policy was created for the purpose of providing an internal procedure for the resolution of prisoner complaints, problems, and grievances that cannot be resolved informally. It is an agency policy that deals with the internal affairs of the Department and as such, was not promulgated pursuant to the APA. See *L'Heureux v. State Department of Corrections*, 708 A.2d 549 (R.I. 1998) ("the APA is not applicable to classification proceedings, disciplinary proceedings, or rule making dealing with the internal affairs of the ACI by the DOC"). This policy does not affect procedures available to the public as it does not authorize members of the public to submit grievances on behalf of themselves or inmates. Additionally, this policy does not affect private rights as it is well established that a prisoner "has no constitutional right of access to a grievance procedure." *Diaz v. Wall*, 2018 U.S. Dist. LEXIS 38097, \*22 (D.R.I. February 12, 2018); *Reichert v. Abbott*, 2019 U.S. Dist. LEXIS 113270, \*6 (D. Me. July 9, 2019) ("a prisoner does not have a constitutional right to a particular prison grievance procedure, or even to file a prison grievance"); *Holloman v. Clarke*, 244 F. Supp. 3d 223, 230 (D. Mass., March 23, 2017) ("inmates do not have a constitutionally protected right to a grievance procedure").

Thus, the Department's Grievance Policy is neither a rule or guidance document under the APA because the policy concerns only the internal management of the Department and does not affect private rights or procedures available to the public. Accordingly, Petitioner's request for a declaratory ruling is

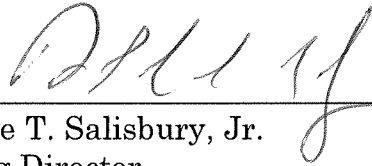
outside the confines of R.I. Gen. Laws § 42-35-8(a).

Additionally, the Petitioner's request for a declaratory ruling is not justiciable. The Rhode Island Supreme Court has stated that R.I. Gen. Laws § 42-35-8 is "an administrative counterpart of the Declaratory Judgments Act." *Liguori v. Aetna Casualty & Surety Company*, 384 A.2d 308, 312 (R.I. 1978). It is well-settled rule that "the Superior Court is without jurisdiction under the Uniform Declaratory Judgments Act unless it is confronted with an actual justiciable controversy." *McKenna v. Williams*, 874 A.2d 217, 226 (R.I. 2005). This principal applies equally to declaratory rulings under § 42-35-8. See *City of Providence Board of Licenses v. Department of Business Regulation of R.I.*, 2013 R.I. Super. LEXIS 195, \*9 (November 18, 2013).

"It is fundamental that, to be entitled to a declaratory judgment, a plaintiff must both demonstrate a personal stake in the outcome of the controversy and advance allegations claiming an entitlement to actual and articulable relief." *McKenna*, 874 A.2d at 227. The Declaratory Judgments Act was "not intended to serve as a forum for the determination of abstract questions or the rendering of advisory opinions." *Lamb v. Perry*, 225 A.2d 521, 523 (1967). The Petitioner's request for a declaratory ruling would require the Department to issue an advisory opinion as there is no present case or controversy before the Department. Petitioner's request for a declaratory ruling is nothing more than a request for clarification of the Department's Grievance Policy. The Petitioner has not set forth any allegations to suggest that his access to the grievance process was hindered

because he asked another inmate for assistance in writing his grievance. Moreover, the Petitioner does not allege that the Department's Grievance Coordinator refused to address Petitioner's grievance because he received assistance from another inmate. Petitioner's request for a declaratory ruling is nothing more than a request for advisory opinion. Petitioner has not made a showing that he is entitled to actual and articulable relief. Accordingly, the Petitioner has failed to articulate a justiciable basis for a declaratory ruling.

For these reasons, the Department declines to issue a declaratory order.



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Wayne T. Salisbury, Jr.  
Acting Director  
Rhode Island Department of Corrections

May 9, 2024

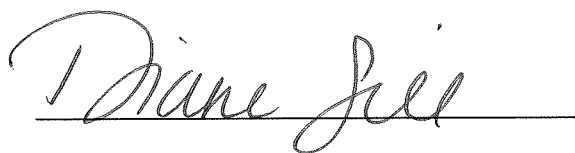
NOTICE OF APPELLATE RIGHTS

This decision constitutes a denial to issue a declaratory order requested under R.I. Gen. Laws § 42-35-8(a). Pursuant to R.I. Gen. Laws § 42-35-8(d), this order may be subject to judicial review.

Certification

I hereby certify that on this 9th day of May 2024, that a copy of the within Decision was sent by inter-departmental mail to:

Jamie A. Barriera (#527530)  
Maximum Security  
P.O. Box 8273  
Cranston RI 02929

A handwritten signature in cursive script, reading "Diane Jee", is written over a horizontal line.



# **Exhibit A**

LEGAL COUNSEL

MAR 12 2024

03/09/2024

Department of Corrections

Nicole DiLibero Esq.,

I recently filed a grievance regarding the unsubstantiated denial of monthly contact visits with "immediate family" (i.e. Father). Having little to no experience filing grievances, I asked another, much more knowledgeable inmate to assist me in writing out said grievance.

Having only filed one (1) grievance prior to this one, I was unsure about what to write, how to go about adding all pertinent information, while excluding a whole lot of emotion. So although I asked another inmate to assist me in writing the grievance, it was my issue solely, and it was I alone who filed the grievance, not him.

On March 8, 2024, the grievance coordinator (Billie Jo Gallagher), sent me a letter accusing me of trying to circumvent the stages of the grievance.

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process, simply because another inmate assisted me in writing the grievance.  
(See File)

Although the grievance policy says that "special provisions are made to ensure access for inmates with a language barrier, disability, or impairment. Inmates may contact the counseling staff in their facility for such assistance," I do not meet this criteria to receive assistance from a counselor.

I request that pursuant to RIGL 42-35-8 (A), the RIDOC issue a declaratory order which states in what manner RIDOC policy 13.10-5 applies to me, insofar as being allowed or prohibited from having another inmate assist me in writing out a grievance, in which I then file on my own.

JAMIE A. BARRERA  
ID # 527530  
Maximum Security

Humbly,

