



RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE

	POLICY NUMBER: 13.10-4 DOC	EFFECTIVE DATE: 02/04/19	PAGE 1 OF 13
	SUPERSEDES: 13.10-3 DOC	DIRECTOR: Please use BLUE ink. 	
SECTION: INMATE RIGHTS		SUBJECT: INMATE GRIEVANCES	
AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10 (22), Powers of the director; <u>Lothar v. Vose</u> , C.A. No. 94-063IL (U.S. District Court of Rhode Island)			
REFERENCES: ACA # 4-4284 (grievance procedure); the most recent version of RIDOC Policies 1.11 DOC, Inmate Communication ; 3.22 DOC, Union Representation in Employee Investigatory Interviews ; 5.01 DOC, Management of Semi-Active and Archival Records ; 9.49 DOC, PREA Policy (Prison Rape Elimination Act); 11.01 DOC, Code of Inmate Discipline ; 15.01 DOC, Classification Process ; 18.11 DOC, Inmate Complaints Relative to Health Care Services ; PREA Final Standard § 115.52 Exhaustion of administrative remedies			
INMATE/PUBLIC ACCESS?		X YES	
AVAILABLE IN SPANISH?		X YES	

I. **PURPOSE**

To provide a procedure for the resolution of those inmate complaints, problems, and grievances that cannot be resolved informally.

II. **POLICY**

- A. **All** inmates are eligible to file grievances, and have access to the inmate grievance procedure.
- B. 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.

- C. Legitimate inmate grievances should be resolved informally, at the lowest level in the chain of command. In instances where a grievance cannot be resolved on an informal basis, a structured grievance process, as described herein, is used to investigate and where appropriate, resolve the grievance.
- D. Under no circumstances will an inmate be denied the right to file an informal or formal grievance, except in instances where there may be an abuse of the grievance process. For more information on abuse of the grievance procedure, please see Section IV.D., Abuse of the Inmate Grievance Procedure.

III. DEFINITIONS

- 1. Abuse of the Inmate Grievance Process - Demonstrating a pattern of abuse of the inmate grievance process by submitting clearly frivolous or repetitious grievances, or knowingly submitting false documents.
- 2. Departmental Grievance Coordinator - The individual responsible for coordinating and monitoring the Departmental Inmate Grievance Procedure.
- 3. Exhaustion of Administrative Remedies - The completion of the grievance process as outlined in this policy, from informal review through the formal – Level 2 appeal.
- 4. Facility Grievance Officer – A Supervisor (security staff) at each facility designated by the Warden/designee to coordinate the Inmate Grievance Procedure.
- 5. Grievance/Complaint - A written complaint filed by an inmate on the inmate's own behalf in accordance with the procedures stated in this policy.
- 6. Negligence – The failure to exercise the standard of care that a reasonable prudent person would have exercised in a similar situation. Failure to comply with RIDOC policies, facility standard operating procedures (SOPs), protocols and post orders.
- 7. Retaliation - Any action or threat of action against any staff member or inmate for good faith participation in the grievance procedure.
- 8. Unprocessed – The term used to describe a complaint/grievance addressing a particular issue being returned to an inmate without being processed in any manner.

IV. **PROCEDURES**

A. A grievance may only be filed:

1. concerning one grievable subject matter,
2. by the inmate directly affected by the alleged incident, and
3. within seven (7) days of the actual situation/incident, or within seven (7) days after the inmate becomes aware of the situation/incident.

B. **Grievable Areas of Facility Life**

1. Interpretation and application of policies, rules and procedures of the facilities and/or Department. The inmate must specifically demonstrate with factual basis that s/he has been in some manner, unfairly or personally adversely affected by the interpretation or application of facility and/or Department policy, procedure or rule.
2. Individual employee(s) action(s), including any denial of access to the inmate grievance procedure, except where the denial is based on abuse of the grievance procedure as outlined in this policy.
3. Formal or informal retaliation for use of, or participation in, the inmate grievance procedure.
4. Property loss or damage.
5. Any other matter relating to access to privileges, programs, and/or services; conditions of care or supervision; and living facility conditions within the authority of RIDOC, except as noted in this policy.

C. **Non-Grievable Areas of Facility Life**

1. The following is a list of **non-grievable areas of facility life, using the grievance process outlined in this policy**:
 - a. State and Federal laws and regulations.
 - b. State and Federal court decisions.
 - c. The process of developing any Departmental policies.

- d. Discipline decisions and all processes leading to the decision. (For more information on the complaint process for discipline decisions, please see the most recent version of RIDOC Policy 11.01 DOC; [Code of Inmate Discipline](#).)
 - e. Classification decisions and all processes leading to the decision. (For more information on the complaint process for classification decisions, please see the most recent version of RIDOC Policy 15.01 DOC; [Classification Process](#).)
 - f. Health care, and decisions made by qualified medical and mental health personnel related to an inmate's health. (For more information on the complaint process for health care decisions, please see the most recent version of RIDOC Policy 18.11 DOC, [Inmate Complaints Relative to Health Care Services](#).)
 - g. Parole Board decisions.
 - h. Designation of an inmate as a Security Risk Group (SRG) or Protective Custody (PC) inmate.
 - i. Unlawful acts committed by inmate(s).
 - j. Matters beyond RIDOC's control, including matters involving the loss or delay of mail by the U.S. Postal Service or other carriers, e.g. UPS, Federal Express, etc.
 - k. The subject of any prior grievance where a decision has been reached through the Grievance Procedure outlined in this policy.
 - l. Allegations of sexual abuse or sexual harassment. (For more information on reporting allegations of sexual abuse or sexual harassment, please see the most recent version of RIDOC Policy 9.49 DOC, [PREA \(Prison Rape Elimination Act\) Policy](#).)
2. Complaints related to non-grievable areas of facility life that are determined to be clear violations of this policy will be rejected and returned to the inmate as an unprocessed grievance.
 3. All complaints that are reports of an allegation of sexual abuse or sexual harassment shall be immediately forwarded to the Special Investigations Unit (SIU) or the Office of Inspections (OI), and investigated pursuant to RIDOC policy and procedure.

D. **Informal Resolution of Grievance**

1. Inmates are strongly encouraged to attempt to resolve their complaints at the lowest level in the chain of command and by informal means including, but not limited to, discussions with staff in the area most responsible for the complaint being filed (for more information on resolving issues through the chain of command, please see the most recent version of RIDOC Policy 1.11 DOC, [Inmate Communications](#)).
2. Seeking an informal resolution may result in the inmate getting his/her issue resolved more quickly than utilizing the grievance procedure outlined below.
3. Providing information as to how the complaint was handled informally, may be beneficial to investigation and resolving the complaint.
4. The informal resolution process is not required to access the formal grievance procedure and it shall not operate to limit access to filing a formal complaint.

E. **Inmate Grievance Procedure**

1. The following levels are used in an attempt to resolve inmate grievances effectively and efficiently:
 - a. Level 1 - Warden/Designee, submitted to the facility's Grievance Officer. (See the process outlined in #6 of this section.)
 - b. Level 2 - Departmental Grievance Coordinator, as designated by the Director. (See the process outlined in #6 of this section.)
2. It is imperative that these two levels be utilized, **in order**, until the grievance is either resolved at any level or denied through both levels.
3. Any grievance submitted where grievance procedures were not followed will result in the grievance being returned to the inmate as unprocessed, directing him/her to use the proper procedure.
4. Grievances shall be recorded in the Grievance Database by a receiving facility staff person, as designated by the Warden.
5. Level 1 - Warden/designee
 - a. Grievance Forms are available to all inmates and shall be readily accessible in the facility's Law Library or from the Law Cart Clerks.

Staff in charge of areas where Grievance Forms are kept shall ensure there are copies available to all inmates.

NOTE: The Warden or Departmental Grievance Coordinator may also determine other locations where Grievance Forms shall be made available to inmates.

- b. The inmate **must** provide complete, accurate and legible information on the Grievance Form. Failure to do so will result in the grievance being returned to the inmate as unprocessed.
- c. Completed Grievance Forms shall be placed in the locked mailbox(es) identified at each facility as the drop box(es) for inmate grievances. These locked mailboxes are opened at least once daily (Monday-Friday). Locked mailboxes are not opened on Saturday or Sunday.

NOTE: If the grievance contains a complaint against a specific staff member, to include a member of a collective bargaining unit, non-union staff, contractors and/or volunteers, that person receives a notification letter. (Level 1 - from Warden/designee or Grievance Officer; Level 2 - from Departmental Grievance Coordinator.) S/he shall prepare a written report in response to the allegation(s) contained in the grievance. Immediate supervisors and collective bargaining unit officials receive a copy of their staff's and/or union member's notification letter.

NOTE: In the case of restricted housing cellblocks or modules, such mailboxes are located in the day rooms.

- d. The Facility Grievance Officer makes copies of the Grievance Form, after it is date stamped and assigned a grievance number, and distributes them in accordance with the distribution list at the bottom of the form.
- e. The Facility Grievance Officer has ten (10) working days (Monday - Friday) to conduct an investigation into the complaint. This may include a personal interview with the inmate. Based on information obtained during the investigation, the Facility Grievance Officer makes a recommendation to the Warden/designee.

NOTE: Information obtained in the interview shall be captured in the Grievance Database.

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- f. The Warden/designee has five (5) working days (Monday – Friday) from the date on which the grievance is received from the Grievance Officer to respond in writing to the inmate. The response should be complete and concise, and entered on the Grievance Form.
 - g. Copies of the Grievance Form, with the Warden/designee’s decision, are distributed to the appropriate staff in accordance with the distribution list found at the bottom of the form.
 - h. Upon receipt of the decision from the Warden/designee, the inmate has five (5) days to decide whether he/she will appeal the decision.
 - i. If the grievant is satisfied with the Warden/designee's response, the grievance procedure terminates at this point.
 - j. If the grievant is not satisfied with the Warden/designee’s response or does not receive a Level 1 response within fifteen (15) working days (Monday – Friday), the inmate may appeal to Level 2, following the procedures outlined in Section IV.G.6 of this policy.

6. Level 2 - Appeal to the Departmental Grievance Coordinator

- a. In order to complete a Level 2 grievance, the inmate checks the box labeled “Level 2 – Appeal to the Departmental Grievance Coordinator” on his/her copy of the Level 1 response (Grievance Form).

NOTE: Inmates are **not** required to complete a new Grievance Form in order to request a Level 2 review. The form is designed so that inmates can grieve the Level 1 decision on the same form.

- b. Completed Level 2 grievances shall be mailed directly to the Departmental Grievance Coordinator.

NOTE: If Level 2 grievances are received by the Facility Grievance Officer, he/she shall forward all information to the Departmental Grievance Coordinator.

- c. The Departmental Grievance Coordinator ensures that all documentation is date-stamped, and information is entered into the Grievance Database and the Monthly Log.
- d. Upon receipt of the Level 2 appeal, the Departmental Grievance Coordinator conducts an investigation.

NOTE: Information obtained during the investigation shall be captured in the Grievance Database.

- e. Based upon that investigation, the Departmental Grievance Coordinator makes a decision on the appeal within twenty (20) working days (Monday – Friday) of receipt of the complete package of materials pertaining to the grievance.
- f. The decision must be in writing, on the Grievance Form. Copies of the Level 2 decision are distributed in accordance with the distribution list at the bottom of the form.

F. **Grievance Extensions**

Each level of the Inmate Grievance Procedure may be extended by request.

1. Inmate Request for Extension

If an inmate needs more than the allotted time in which to gather information and/or documents to support his/her grievance at either level, he/she may request a twenty (20) day filing extension.

- a. The inmate must submit a request in writing outlining which grievance specifically they are requesting a filing extension for, including a grievance number if one has been assigned.
- b. Level 1 grievance extensions shall be sent to the Facility Grievance Officer who will forward the request to the appropriate individual for review. Level 2 grievance extensions shall be sent to the Departmental Grievance Coordinator for review.
- c. The Warden/designee or Departmental Grievance Coordinator shall provide a written notice to the inmate's request for grievance extension within seven (7) working days (Monday – Friday) of receiving the request.

2. Staff Grievance Extensions

If staff needs more than the allotted time to conduct an investigation and provide a written response, s/he may extend the grievance for no more than twenty (20) working days (Monday – Friday) from the date received.

- a. Staff may extend a grievance based on the nature of subject matter, complexity of investigation or for good cause shown in extenuating circumstances.
 - b. The Warden/designee or Departmental Grievance Coordinator completes a Grievance Extension Form within the allotted time period and forwards it in accordance with the distribution list found at the bottom of the form.
3. Departmental Review Extension
- a. When the resolution of a grievance may result in a Departmental policy or facility procedure change, or the subject matter of the grievance is of a complex nature, the Warden or Departmental Grievance Coordinator may extend the grievance procedure no longer than one hundred and eighty (180) days from the filing of the grievance. The Warden or Departmental Grievance Coordinator completes a Grievance Extension Form and forwards it in accordance with the distribution list found at the bottom of the form.
 - b. The Warden and Departmental Grievance Coordinator are authorized to take temporary remedial measures to resolve the grievance in the interim; however, such measures are granted on a case-by-case basis and shall not be an indication of policy changes and/or future grievance decisions.

G. Grievance Withdrawals

Inmates may withdraw grievances at any time during the grievance process.

1. The inmate shall notify the facility's Grievance Officer in writing that he/she would like to withdraw his/her grievance.
2. The inmate may place the written withdrawal request in the locked mailbox in the dining room for Level 1 or Level 2 withdrawal requests. Inmates may also send a Level 2 withdrawal request directly to the Departmental Grievance Coordinator.
3. The facility's Grievance Officer notifies the appropriate administrators of the withdrawal request, and sends copies of the request and any other relevant material, to the Departmental Grievance Coordinator for filing.

H. **Unprocessed Grievance(s)**

1. Grievances may be returned to an inmate as unprocessed if the grievance:
 - a. Threatens serious bodily harm to self, staff, inmates or the general public. **Matters such as this should be *immediately* reported to the Superior Officer of the appropriate facility(s).**
 - b. Raises multiple issue(s) on a single form.
 - c. Is a duplicate complaint, grievance or appeal.
 - d. Raises an issue previously addressed through the grievance process.
 - e. Is filed by an inmate not directly affected by the alleged incident or situation.
 - f. Fails to state the reasonable relief being requested as a solution to any complaint, grievance or appeal.
 - g. Is filed past the time frame requirements unless there are extenuating circumstances.
 - h. Is filed concerning non-grievable subject matters.
2. All complaints that are reports of an allegation of sexual abuse or sexual harassment shall be immediately forwarded to SIU or OI, as appropriate, and investigated pursuant to RIDOC policy and procedure.

I. **Abuse of the Inmate Grievance Procedure**

1. Punishment or disciplinary actions do not result from an inmate submitting a complaint or grievance **unless** the inmate:
 - a. Files repetitive grievances addressing the same issue where sufficient time for response has not elapsed or where a valid response has been provided.
 - b. Files of an excessive number of grievances;
 - (1) five (5) or more grievances in a week, or
 - (2) twenty (20) or more in any consecutive 180-day period.

- c. Files an appeal of a grievance that was settled in the inmate's favor at a lower level.
- d. Files harassing grievances.
- e. Files as otherwise stated in this policy.

NOTE: An inmate may be limited to not more than ten (10) active grievances at one time, not including emergency grievance(s).

- 2. Abuse of the inmate grievance procedure is determined by the Warden/designee of the inmate's facility. A determination of abuse can result in a limitation of the grievance process all together, or on a particular subject.
 - a. The Warden/designee establishes the length of limitation commensurate with the degree of abuse.
 - b. The length of limitation may be for up to six (6) months and may be increased for second and subsequent abuse in increments, but no single limitation shall exceed six (6) months.
- 3. Notice of limitation is made in writing, by the Warden/designee, to the inmate and forwarded to the Departmental Grievance Coordinator, who has discretion to modify the Warden/designee's decision after consultation with him/her.
- 4. Upon transfer of an inmate from one RIDOC facility to another, any limitation of access is communicated to the receiving facility by the sending facility Warden/designee. The receiving facility Warden/designee may review and modify the limitation of access.
- 5. A determination of abuse, and any resulting limitation, may be appealed to the Departmental Grievance Coordinator, in writing.

J. Recording and Reporting Requirements

- 1. The Warden shall designate staff at their facility to maintain records and enter information related to inmate grievances in the Grievance Database.

NOTE: Past "paper" logs shall be kept in accordance with the most recent version of RIDOC policy 5.01 DOC; [Management of Semi-Active and Archival Records](#).

2. Grievance information, including logs, databases and paper files, shall be made readily available to **appropriate staff only**. Appropriate staff is determined on a case-by-case basis by the Department Grievance Coordinator, in conjunction with the Office of Legal Counsel, as necessary. Limited access to grievance information is intended to minimize risks to security, protect the safety of individuals and assure privacy interests protected by law.

K. **Institutional Remedies**

When a grievance is resolved in favor of the grievant, the facility Warden/designee or the Departmental Grievance Coordinator has the ability to remedy the grievance in accordance with appropriate department policies, and applicable laws and regulations, at his/her discretion.

L. **Restitution or Monetary Compensation**

Monetary compensation is based on the depreciated value of lost or damaged property.

1. The inmate will be offered 100% of the purchase price of the lost or damaged property if the following criteria is met:
 - a. It has been determined that it was the fault of RIDOC or its employees;
 - b. The item was purchased within the last six (6) months from the date of grievance;
 - c. Proof of purchase is required (i.e., commissary record or receipt).
2. If the lost or damaged property is older than six (6) months and one (1) day, the inmate will be offered the purchase price minus 10% for each year of age in accordance with the following table:

Age of Item	Depreciation %
6 months 1 day to 1 year	10%
1 year 1 day to 2 years	20%
2 years 1 day to 3 years	30%

Example: Original Cost x Depreciation% = Depreciation Value
Original Cost - Depreciation Value = **Monetary Compensation**

$$\$100 \times .10 = \$10$$

$$\$100 - \$10 = \$90 \text{ (Monetary Compensation)}$$

3. If the property was deemed lost, missing or damaged due to staff negligence or error and the item is older than three (3) years, the depreciation value shall be no lower than 30%. Proof of purchase is required (i.e., commissary record or receipt).
4. If the property was deemed lost, missing or damaged due to staff negligence or error and there is no proof of purchase (i.e., commissary record or receipt), the inmate will be offered a comparable replacement item at fair market value not to exceed \$50.
5. It is the responsibility of the grievant to provide clear evidence of misconduct or negligence on the part of RIDOC or its employees.