
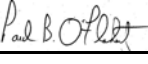



STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
DIVISION OF CORRECTION

 DIVISION OF CORRECTION DIRECTIVE	PROGRAM:	ADMINISTRATIVE REMEDY PROCEDURES	
	DCD #:	185-003	
	TITLE:	Institutional Administrative Remedy Procedures	
	ISSUED:	August 27, 2008	
	EFFECTIVE:	August 27, 2008	
	AUTHORITY:		Paul O'Flaherty Assistant Commissioner
	APPROVED:		J. Michael Stouffer Commissioner

I. References:

- A. Suits by Prisoners, 42 U.S.C. § 1997e(a)
- B. Correctional Services Article, §§ 10-201 through 10-210, Annotated Code of Maryland
- C. Courts and Judicial Proceedings Article, §§ 5-1001 through 5-1007, Annotated Code of Maryland
- D. COMAR 12.02.27 and COMAR 12.07.01.
- E. DCD 175-2 and 250-1

II. Applicable to: All Division of Correction (DOC) inmates housed in DOC institutions and facilities and all DOC staff.

III. Purpose: To establish procedure for wardens and institutional staff to implement policy as stated in DCD 185-002.

IV. Definition: None.

V. Policy: It is the policy of the Division of Correction that:

- A. Staff and inmates shall be encouraged to make a good faith effort to resolve all institutionally related inmate complaints at the lowest possible level.
- B. Inmates shall seek formal resolution initially through the Administrative Remedy Procedure when attempts at informal resolution fail or are not pursued.
- C. Inmates shall adhere to the time periods and other requirements set forth in this Directive and should not expect that any late submission will be considered.
- D. Requests for administrative remedy and appeals under the Administrative Remedy Procedure be answered on the merits and that substantive relief be provided to the inmate when warranted.

VI. Procedures:

A. Warden

1. The warden is responsible for the operation of the administrative remedy procedure at the institutional level and for ensuring institutional compliance.
2. The warden shall:
 - a. Designate a correctional case management specialist, supervisor, manager, or correctional officer as the institutional administrative remedy coordinator and designate an alternate to function as coordinator in the coordinator's absence;
 - b. Designate one supervisor within each department (who shall be referred to as the departmental liaison throughout this series of directives) to serve as an investigator and/or to delegate investigations to departmental staff (this includes the medical department);
 - c. Ensure that all inmates and staff are aware of the administrative remedy procedure;
 - d. Encourage the use of the informal resolution process by staff and inmates to resolve inmate complaints at the lowest possible level by directing staff to actively participate in the resolution of inmate complaints;
 - e. Respond to all complaints within the prescribed time frame; and
 - f. Manage the institution's compliance with the administrative remedy directives through the institutional coordinator.

B. Administrative Remedy Coordinator (ARC)

1. The administrative remedy coordinator is responsible for managing the operation of the administrative remedy procedure within the institution.
2. The coordinator shall:
 - a. Process all formal complaints submitted through the administrative remedy procedure;
 - b. Ensure that all institutional staff responsibilities for administrative remedy are completed consistent with established procedures;
 - c. Report to the warden any non-compliance with procedures which affect the ability to meet established time frames;
 - d. Ensure the availability of all appropriate administrative remedy forms to all inmates by supplying these forms to the case management department, housing unit officers, and the inmate library;

- e. Make appropriate accommodations for any inmate who is not proficient in the English language so that the inmate has access to the ARP process; and
 - f. Process all complaints consistent with the procedures and time frames established in the administrative remedy DCDs.
- C. Department Liaisons
1. Department liaisons shall be the administrative remedy coordinator's point of contact for all investigations related to that department.
 2. Department liaisons may choose to either conduct the investigations themselves or assign the complaint to an employee in that department for investigation.
- D. Investigators
1. Investigators shall investigate each case assigned to them in accordance with the procedures established in this directive utilizing the Administrative Remedy Procedure Case Summary, Appendix 1 to this directive.
 2. Investigators shall be responsible and accountable for submitting completed investigations back to the ARC by the due date.
- E. Preliminary Review of an Administrative Remedy Procedure (ARP) Request
1. The warden or the institutional coordinator shall conduct a preliminary review of each request for administrative remedy to determine if the inmate's complaint concerns an emergency request or if the complaint is frivolous or malicious.
 2. If it is determined that the complaint concerns an emergency request, all regular time limits and procedural requirements shall be set aside and the warden or designee shall, without further substantive review of the request:
 - a. Accelerate the investigative process;
 - b. Direct immediate corrective action; and/or
 - c. Notify the institutional health care provider of any medical complaints that are determined to be emergencies.
 3. If the warden determines that the complaint is frivolous or malicious, the warden shall:
 - a. Complete Part B of Appendix 3 to DCD 185-002,
 - b. Indicate that the request is dismissed for procedural reasons final as frivolous or malicious or both;
 - c. Forward the request to the institutional coordinator to be indexed, copied, and distributed; and

- d. Review the request to determine if the inmate properly completed an ARP request as required by DCD 185-002.
 4. If the inmate fails to properly complete the ARP request and if this failure is vital to determining the inmate's interest or basis for the investigation, the ARC shall dismiss the complaint for procedural reasons pending resubmission.
 5. Inmates are encouraged but not required to list the steps taken to resolve their complaint informally and a complaint should not be dismissed for procedural reasons pending resubmission to obtain this information.
- F. Resubmitting a Request
1. If the institutional coordinator has dismissed a request for procedural reasons as insufficient or incomplete and issued instructions for resubmitting the request, the inmate may resubmit the request to the warden, one time only, by:
 - a. Completing a new Request for Administrative Remedy; and
 - b. Following the specific instructions provided by the institutional coordinator in the receipt portion of Part C (Appendix 3 to DCD 185-002) of the Request for Administrative Remedy.
 2. Failure to resubmit the request in accordance with the coordinator's instructions shall result in a dismissal for procedural reasons final of the request which is subject to non-concurrence by the headquarters coordinator.
- G. Inmates shall submit their request for administrative remedy to an officer in the control center of the inmate's housing unit, a tier officer, or a custody supervisor. The request will be processed by the officer in accordance with the instructions in DCD 185-002.
- H. The warden may issue an Institutional Bulletin (IB) designating a location to which officers shall deliver the requests.
1. The IB may designate a time and place for inmates to submit their requests.
 2. The warden shall ensure that all inmates have at least a daily opportunity to turn in their requests.
 3. The requests shall be stamped daily either by staff assigned to the Warden's office or the institutional coordinator. The time frame for indexing starts from the stamp date.
- I. The warden's time frame for responding to a request starts from the date that the officer signs the request.

- J. An inmate may, for any reason, withdraw a complaint by submitting to the institutional or headquarters coordinator a completed Withdrawal Form, Appendix 5 to DCD 185-002. The coordinator shall ensure that:
1. The Withdrawal Form is included in the ARP file; and
 2. The inmate is offered a copy.
- K. Indexing and Assigning Case Numbers
1. The administrative remedy coordinator shall maintain the Administrative Remedy Index, Appendix 2 to this directive, to record requests for administrative remedy within five working days of the date stamp on the request. The coordinator shall ensure that:
 - a. The index is maintained electronically with the ability to search for requests by year, inmate name, subject code, and disposition code.
 - b. A new index form is used at the beginning of each calendar month. Enter the institution, month, and year at the top of the form.
 - c. Each request received is assigned a case number consisting of the institution's initials followed by a four digit sequential number followed by the last two digits of the year. The four digit number shall begin at 0001 and return to that number on January 1 of each year. (Example: MCTC-0001-08 would be the number for the first request received by the institutional coordinator of the Maryland Correctional Training Center for the calendar year 2008).
 - d. Each case which is resubmitted in accordance with the coordinator's instructions retains the assigned case number.
 - e. Each case that is returned from the headquarters coordinator due to a non-concurrence of the institutional coordinator's rationale for a dismissal for procedural reasons retains the assigned case number and is investigated.
 2. The first five columns should be completed as the request or appeal is indexed.
 - a. The first column shall contain the assigned case number.
 - b. The second column shall contain the inmate's name
 - c. The third column shall contain the inmate's DOC number.
 - d. The fourth column shall contain the date of the month on which the complaint was indexed.
 - e. The fifth column, if applicable, shall contain either:
 - (1) The number code "5" from the disposition codes indicating that a request has been dismissed for procedural reasons pending resubmission; or

- (2) The number code “7” indicating that the case has been returned for investigation due to a non-concur of a dismissal for procedural reasons by the Headquarters Coordinator.
 - (3) Column five shall also contain the date on which the resubmitted request is indexed and accepted or the date the non- concur is indexed and accepted.
- f. Column six shall contain the subject code(s) identifying the nature of the complaint. Codes are provided on the reverse side of the index form. The coordinator is responsible for establishing which code is the most appropriate. No more than two subject codes may be entered in this column.
- g. The remaining index entries shall be completed as follows:
 - (1) Column seven shall contain the date of the month on which the warden or commissioner signed the response or the date that the request was dismissed for procedural reasons by the institutional coordinator.
 - (2) Column eight shall either contain the date that the inmate signed the receipt of Warden’s response or shall contain the date that the dismissal for procedural reasons by the institutional coordinator was mailed to the inmate.
 - (3) Column nine shall contain a one-digit number from the coding sheet located on the back of the index indicating the disposition of the complaint.
 - (4) Column ten is for the entry of a brief description of the inmate's complaint, the reason for the dismissal for procedural reasons of the complaint, or the date that the resubmitted request is due.
- h. Each line of the index form shall be used through the last entry on the last date of the month.
- i. By the tenth working day of each month, a copy of the previous month’s index shall be electronically mailed to the headquarters administrative remedy office.
- j. The coordinator shall ensure that the index is properly updated as dispositions are rendered in previously unresolved cases.
- k. When dispositions have been made for all cases indexed for the month, a copy of the completed index shall be electronically mailed to the headquarters coordinator.

L. Administrative Remedy Procedure Files

1. The administrative remedy coordinator shall maintain a centralized file with a copy of each closed administrative remedy request or appeal with any investigative findings or documentation attached.
 - a. Files shall be maintained chronologically by month and year in the order indexed. A copy of the monthly index shall be kept in the front of each file separating each new month as a directory to the file's contents.
 - b. Files from the previous year may be stored or archived on January 1st of the following year. For example, all 2006 files shall be stored or archived effective January 1, 2007. The files shall be stored by year in order of case number with a copy of that year's index in the front. The files shall be kept for at least four years following the final disposition of the request and then shall be destroyed.
2. The Warden may authorize these files to be stored electronically provided these files are recoverable should the institution's computers fail.

M. Quarterly Reports

1. Institutional coordinators shall accumulate aggregate data regarding the number and types of requests by subject code heading as listed on the reverse side of the index form using the Request for Administrative Remedy Quarterly Report, Appendix 3 to this directive.
2. Reports of the data are to be maintained by the institutional coordinator and available upon request or in the event of an audit.

N. Dismissal of a Request for Procedural Reasons

1. The institutional coordinator shall dismiss the request for procedural reasons pending resubmission when the inmate has failed to properly complete all sections of the request or when the inmate has failed to provide sufficient information or specific information within the complaint essential for the completion of its investigation. (Note: A request without an officer's signature is considered incomplete.) The institutional coordinator shall:
 - a. Provide in the receipt portion, Part C (Appendix 3 to DCD 185-002), the reason(s) why the request is incomplete;
 - b. Provide specific instructions for the inmate to properly complete the request for administrative remedy;
 - c. Provide the specific due date of the resubmitted request which is the later of 15 calendar days from dismissal or within the original 30 day time frame; and
 - d. Return the request and a blank request for administrative remedy to the inmate and keep one copy for the file.

2. Failure by the inmate to resubmit the request in accordance with the coordinator's instructions or failure to resubmit by the due date given shall result in a final dismissal for procedural reasons at the institutional coordinator's discretion subject to non-concurrence by the headquarters coordinator.
 - a. If the inmate fails to resubmit the request, the disposition date in column seven of the index shall be the date that the resubmission was due.
 - b. If the resubmission is received after the due date, the disposition date is still the date that the resubmission was due, but the date that the late resubmission is received shall be noted in column ten.
3. The institutional coordinator shall:
 - a. Accept a late filing or take appropriate action outside of the ARP process for good cause if failure to do so could result in serious harm.
 - b. Issue a final dismissal of a request for procedural reasons when the request is regarding any of the following issues:
 - (1) Case management recommendations and decisions;
 - (2) Maryland Parole Commission procedures and decisions;
 - (3) Adjustment hearing procedures and decisions; and
 - (4) Appeals of notices of decision to withhold mail.
 - c. Issue a final dismissal of a request for procedural reasons when the inmate has failed to submit the request within the proper time frame unless the inmate establishes that extraordinary circumstances prevented the inmate from filing the request in a timely manner. The institutional coordinator may, as necessary, refer dismissed cases to appropriate institutional staff for evaluation and follow-up outside of the administrative remedy procedure.
 - d. Issue a final dismissal of a request for procedural reasons when the inmate's complaint is one which has been previously resolved, is repetitive, or had been previously addressed through the administrative remedy procedure. The coordinator shall note the case number of the request that previously addressed the same issue.
 - e. Issue a final dismissal of a request for procedural reasons when the request is in excess of that inmate's monthly limit as established by the Commissioner of Correction.

4. The Warden or institutional coordinator shall issue a final dismissal of a request for procedural reasons when it has been determined that the basis of the complaint is the same basis of an investigation under the authority of the Internal Investigative Unit (IIU).
 - a. The dismissal must refer to IIU's case number.
 - b. The response shall read: "Your request is dismissed for procedural reasons final. This issue is being investigated by IIU, case number: _____. Since this case shall be investigated by IIU, no further action shall be taken within the ARP process."
 5. When a request is dismissed for procedural reasons by the coordinator, the coordinator shall:
 - a. Provide in the receipt portion, Part C (Appendix 3 to DCD 185-002), the rationale for the dismissal for procedural reasons; and
 - b. Sign and date part C (Appendix 3 to DCD 185-002).
 6. The coordinator shall return any request which is dismissed for procedural reasons to the inmate on the date the request is indexed and reviewed and ensure that the completed dismissed request for administrative remedy is distributed as follows:
 - a. Original and one copy to the inmate; and
 - b. One copy to the administrative remedy file maintained by the coordinator.
 7. A final dismissal for procedural reasons of a request by the warden or institutional coordinator shall be treated as a substantive decision and the rationale for dismissal may be appealed by the inmate.
- O. Accepting and Investigating a Request for Administrative Remedy
1. The institutional coordinator shall accept requests which are not dismissed for procedural reasons for investigation and response.
 2. On the date the request is indexed, the coordinator shall:
 - a. Send the receipt portion, Part C (Appendix 3 to DCD 185-002), of the request for administrative remedy to the inmate;
 - b. Review each request to determine the nature of the complaint and the departmental liaison(s) to whom the investigation should be assigned; and
 - c. Assign the request to the departmental liaison(s) for investigation within 20 calendar days or less.

3. For cross-over cases:
 - a. The coordinator of the indexing institution shall send the original request to the coordinator of the institution where the basis for the complaint occurred and shall retain a copy for the file.
 - b. The receiving institutional coordinator shall assign the case to the applicable department liaison(s).
 - c. The institution where the incident occurred shall be responsible for investigating the request; and
 - d. The Warden of that institution shall be responsible for responding to the request.
 - e. The original Warden's response, case summary, and supporting documentation shall then be forwarded to the indexing institution so that that coordinator can update the index and ensure that the request is distributed to the inmate.
 - f. Both institutions shall maintain an ARP file on the case.
4. Upon receipt, the departmental liaison(s) shall either investigate the request or assign the request to a staff person within that department for investigation.
5. One or more employees may participate in the investigation of a complaint, provided there is no conflict of interest.
 - a. If a case is assigned to an employee who believes that participation in the investigation would be a conflict of interest, that employee must notify the departmental liaison and substantiate that conflict.
 - b. If the departmental liaison determines that there is a conflict of interest, the departmental liaison shall then assign the investigation to a different employee.
6. The assigned investigator shall, at a minimum, complete each of the following steps and document that completion on the Administrative Remedy Procedure Case Summary, Appendix 1 to this directive. Instructions for completing the case summary are as follows:
 - a. Conduct Interviews: Absent good cause, all relevant persons must be interviewed to establish the basis of the inmate's complaint and the chronology of the events. Relevant persons are:
 - (1) The inmate;
 - (2) All relevant witnesses named by the inmate; and
 - (3) All relevant employees, including medical staff.
 - b. If the person interviewed is a staff member, that person shall provide a written report of the facts absent good cause (such as being out on extended leave).

- c. If the complaint is one which involves a situation affecting a group of inmates and interviews of the complainants would disrupt institutional security, operations, or schedules, no interviews shall be required. However, the reason for the lack of interviews must be documented in writing on the Administrative Remedy Procedure Case Summary, Appendix 1 to this Directive.
 - d. At the Maryland Correctional Adjustment Center and at the North Branch Correctional Institution, interviews of complainants and relevant inmate witnesses may be conducted via the intercom system to accommodate security requirements. However, personal contact interviews must be conducted, absent good cause, if the intercom is inoperable at the time of the interviews.
7. Establish the Specific Findings of Fact
 - a. All reports submitted regarding the case shall be reviewed by the investigator.
 - b. Based on the testimony of witnesses and the information contained in the reports submitted, the investigator shall establish and list any actions or events in the order of their occurrence and shall list any additional facts in the case.
8. Review All Relevant Documents
 - a. The investigator shall review all relevant directives, institutional directives, bulletins, etc., to establish that all actions were taken in accordance with current policy and procedure.
 - b. Any supporting document must be included in the ARP file.
9. Make a Recommendation
 - a. The investigator shall make a recommendation for a finding of meritorious, meritorious in part, or dismissal and shall draft a suitable response for the coordinator's review.
 - b. The assigned investigator shall submit to the departmental liaison all findings, recommendations, and supporting documentation for return to the institutional coordinator within the time frame specified.
10. The coordinator shall review the investigation for completion of all investigative steps, sufficiency of documentation, and application of all relevant directives, etc., and review the recommendation and draft a response.
11. Investigations which are found by the coordinator to be incomplete or insufficient or in which the recommendations are not supported by investigative material shall be returned to the investigator with specific instructions for reinvestigation and resubmission.

12. All investigative reports and reinvestigations must be submitted within the time frame.
13. Upon the withdrawal of a request by an inmate the coordinator shall:
 - a. Notify the appropriate departmental liaison to halt the investigation of the request; and
 - b. Document the disposition of the case on the index.
14. If it is found that thirty calendar days is insufficient to complete the investigation and respond to the inmate's request, the Warden is permitted one extension of fifteen (15) calendar days.
 - a. The inmate's consent to the extension is not required.
 - b. The Warden or designee shall provide written notification, using the Extension Form (Appendix 4 to DCD 185-002), to the inmate regarding the 15 day extension within the original 30 day timeframe.
 - c. A copy of the extension form shall be maintained in the ARP file.
15. Upon receipt of the completed case summary from the departmental liaison, the coordinator shall prepare an appropriate response for the warden's review and signature in Part B (Appendix 3 to DCD 185-002) of the Request for Administrative Remedy. The prepared response shall be based upon:
 - a. The case summary;
 - b. Documents and reports attached; and
 - c. The investigator's recommended response.
16. The response should:
 - a. Address fully all issues and allegations raised in the complaint;
 - b. Be easily understood;
 - c. State clearly the facts upon which the decision is based; and
 - d. The first sentence of the warden's response should clearly state the disposition of the inmate's complaint as:
 - (1) Meritorious;
 - (2) Meritorious in part; or
 - (3) Dismissed, as defined in DCD 185-001.

17. The warden shall review the response to ensure that the complaint has been satisfactorily resolved and that the response is appropriate.
 - a. If the above criteria have been met, the warden shall sign the response in the space provided in Part B (Appendix 3 to DCD 185-002) of the Request for Administrative Remedy; or
 - b. If the above criteria have not been met to the warden's satisfaction, the warden shall return all information to the coordinator for either:
 - (1) A reinvestigation for additional information; or
 - (2) A revised response.
 18. The institutional coordinator shall ensure that the completed Request for Administrative Remedy is distributed as follows:
 - a. Original and one copy to the inmate; and
 - b. One copy to the administrative remedy file maintained by the coordinator.
 19. The inmate shall sign and date the Receipt of Warden's Response, Appendix 4 to this directive, upon delivery of the response.
 - a. One copy of the receipt is issued to the inmate; and
 - b. One copy of the receipt is forwarded to the institutional coordinator to be maintained in the institutional ARP file. This date shall be noted in column eight of the index.
 20. The inmate may appeal the warden's decision in accordance with policy as stated in the 185 series.
- P. Meritorious or Meritorious in Part Cases
1. When the disposition of an administrative remedy request is meritorious or meritorious in part and relief specified in the warden's response has not been fully provided to the inmate at the time of the response, the warden shall clearly instruct appropriate staff, in writing, to:
 - a. Provide the relief specified; and
 - b. Provide written documentation of the relief provided to the institutional coordinator.
 2. The warden may also initiate a change in institutional policy or procedure, if deemed appropriate, as a provision of relief or make a recommendation to the Commissioner or designee for a change in division policy or procedure and acknowledge this action in the response.
 3. The warden shall ensure that:
 - a. Staff provides full relief, as specified in the warden's response; and

- b. Staff provides documentation of that relief within ten calendar days of the date of the response.
4. The institutional coordinator shall monitor meritorious or meritorious in part cases for compliance by maintaining active cases in a separate location from the dismissed cases or the closed meritorious or meritorious in part cases by:
 - a. Filing such cases chronologically, by calendar due date which shall always be ten calendar days from the date of the warden's response;
 - b. Monitoring the file on no less than a weekly basis for staff compliance;
 - c. Notifying the warden when staff fails to provide the relief specified within the proper time frame; and
 - d. Placing the documentation of the relief provided in the administrative remedy file upon receipt.
5. When relief is provided, the case shall be considered closed and filed in accordance with this directive.
6. When the relief includes monetary reimbursement for property, the value of the property at the time of loss should be calculated utilizing Appendix 3 to DCD 220-008.
7. The inmate should then be presented with the reimbursement value of the property and be asked to sign Appendix 1 to DCD 220-008 which shall indicate whether or not the inmate accepts the settlement.
8. If the inmate accepts the settlement, the money should be placed in the inmate's institutional money account under the authority of the Warden and without the review process described in DCD 220-008.
9. For purposes of appeal, if the inmate accepts the settlement offered the amount is considered to be correct and all issues in that request are considered settled.
10. If the inmate refuses to accept the settlement, that fact shall be documented on Appendix 1 to DCD 220-008 and that form shall be placed in the ARP file. That case is considered closed and no money shall be placed in the inmate's account. The inmate may appeal to the Commissioner within the proper time frame.
11. If at the time of Warden's response, the inmate has already refused settlement, the Warden shall:
 - a. State that the request is meritorious in part;
 - b. List the property that the Warden agrees was lost or damaged due to staff negligence;

- c. State what amount was offered to the inmate; and
- d. State that no money shall be deposited into the inmate's account due to the inmate's refusal to accept settlement.

Q. Inmate Orientation

- 1. The Introduction to the Administrative Remedy Procedure, Appendix 5 to this DCD shall be read during the orientation of all newly arriving inmates at MRDCC, MCI-W, and all maintaining institutions.
- 2. All wardens shall ensure that the Introduction to the Administrative Remedy Procedure is incorporated into the institutional inmate handbooks.

R. Staff Awareness

- 1. The warden shall mandate that all new employees be given and sign for the Administrative Remedy Procedure Fact Sheet for New Employees, Appendix 6 to this directive, about the administrative remedy process.
- 2. The fact sheet shall be maintained in the employee's personnel file kept by the institution.

VII. Attachments:

- A. Appendix 1, Administrative Remedy Procedure Case Summary, DOC Form 185-003aR
- B. Appendix 2, Administrative Remedy Index, DOC Form 185-003bR
- C. Appendix 3, Request for Administrative Remedy Quarterly Report, DOC Form 185-003cR
- D. Appendix 4, Receipt of Warden's Response, DOC Form 185-003d
- E. Appendix 5, Introduction to the Administrative Remedy Procedure
- F. Appendix 6, Administrative Remedy Procedure Fact Sheet for New Employees
- G. Appendix 7, Policy Management Audit Form (DOC Form 1-2aR)
- H. Appendix 8, Policy Management Compliance Plan (DOC Form 1-2bR)

VIII. Rescissions: None.

Distribution: A
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