



NEVADA DEPARTMENT OF CORRECTIONS  
ADMINISTRATIVE REGULATION

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**OFFENDER GRIEVANCE PROCEDURE  
ADMINISTRATIVE REGULATION – 740**

**SUPERSEDES:** AR 740 (02/12/10); AR 740 (Temporary 06/16/14); AR 740 (09/16/14); AR 740 (Temporary 01/03/17); AR 740 (03/07/17); AR 740 (08/30/17); AR 740 (Temporary 11/20/18)

**EFFECTIVE DATE: PENDING**

**AUTHORITY:** NRS 209.131; [NRS 209.243](#); [NRS 41.031](#); [NRS 41.0322](#); [NRS 41.0375](#); [34 U.S.C. § 30301, et seq. and Federal Register 28, Code of Federal Regulation \(CFR\) Part 11542-U.S.C. § 15601, et seq. and 28 C.F.R. Part 115](#)

**PURPOSE:**

~~The purpose of this Administrative Regulation (“AR”) is to set forth the requirements and procedures of the administrative process that Nevada Department of Corrections (“NDOC”) inmates must utilize to resolve addressable grievances and claims including, but not limited to, claims for personal property, property damage, disciplinary appeals, personal injuries, and any other tort or civil rights claim relating to conditions of confinement. Inmates may use the Inmate Grievance Procedure to resolve addressable inmate claims only if the inmate can factually demonstrate a loss or harm. This procedure describes the formal grievance processes and will guide NDOC employees in the administration, investigation, response and resolution of inmate grievances. The provisions of this AR shall be effective on or after the effective date of this AR. The provisions of this AR are not retroactive and do not apply to incidents and/or claims that occurred prior to the effective date of this AR. Only inmate claims arising out of, or relating to, issues within the authority and control of the NDOC may be submitted for review and resolution by way of the grievance process. A good faith effort will be made to resolve legitimate inmate claims without requiring the inmate to file a formal grievance. This AR does not create any right, liberty or property interest, or establish the basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.~~

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Procedure to resolve addressable offender claims only if the offender can factually demonstrate a loss or harm. This procedure describes the formal grievance processes and will guide NDOC employees in the administration, investigation, response and resolution of offender grievances.

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## **RESPONSIBILITY**

The Director, through the Deputy Directors (DDs), shall be responsible ~~in-for~~ establishing and supervising ~~an-the inmate~~offender grievance process that provides an appropriate response to an ~~inmate~~offender's claim, as well as an administrative means for prompt and fair resolution of, ~~inmate~~offender problems and concerns.

The Deputy Director ~~and/or designated Administrator~~designee shall be responsible for 2<sup>nd</sup> level grievances.

The Warden through the Associate Wardens (AWs) shall be responsible ~~in-for~~ managing the grievance process at each institution ~~and-including~~ any facilities under the control of the parent institution. The AW may designate an ~~Inmate~~Offender Grievance Coordinator to conduct functions required by this regulation under the AW authority and supervision.

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## 740.01 ADMINISTRATION OF INMATE OFFENDER GRIEVANCES

1. All grievances, ~~whether accepted or not,~~ will be entered into NOTIS, whether accepted or not.
2. Each institution/ ~~and/or~~ facility shall establish locked boxes ~~where in a location that~~ all inmate offenders have access to submit their grievances directly into the box. ~~The Keys~~ will be issued by the Warden, to an AW and/or a designated staff member.
  - A. Lock boxes will be maintained in segregation/ ~~and~~ maximum security housing units in a manner in which the inmate offender will be allowed to have direct access. A designated staff may go cell to cell to pick up grievances in segregation and maximum security housing /max units, due to security and safety concerns, ~~if necessary.~~
  - B. Emergency grievances will be handed hand delivered to any staff member for immediate processing ~~per this regulation.~~
3. A ~~G~~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) and/ ~~or~~ designated staff member.
4. Grievance forms will be kept in housing units and may be accessed through ~~the~~ unit staff, the unit ~~caseworker~~ Correctional Casework Specialist (CCS) and/ or in the Institutional Law Library.
5. Grievances may be GRANTED, DENIED, PARTIALLY GRANTED, ABANDONED, DUPLICATE, NOT ACCEPTED, OR GRIEVABLE, RESOLVED, ~~SETTLEMENT SETTLED, OR~~ WITHDRAWN; ~~or~~ referred to the Office of the Investigator-Inspector General's (IG) Office at any level, as deemed appropriate after the claim in the grievance has been investigated. All Prison Rape Elimination Act (PREA) grievances shall must immediately be referred to the Inspector General. Grievance findings or responses will not be titled "Substantiated."
6. The Grievance Coordinator ~~should must~~ record receipts, transmittals, actions, and responses on all grievances into NOTIS within three (3) working days of receipt.
  - A. The coordinator ~~should must~~ sign, date, and enter the approximate time, as noted on Informal Grievance Form (DOC 3091), First Level Grievance form (DOC 3093), and Second Level Grievance form (DOC 3094).
  - B. The front page of the grievance ~~should must~~ be date stamped on the day it is entered into NOTIS.

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7. Monthly and annual grievance reports, generated by NOTIS, will be reviewed by the ~~Deputy Directors (DDs)~~, Wardens, and ~~Associate Wardens (AWs)~~ on a quarterly and annual basis.

#### 740.02 GRIEVANCE RECORDS

1. Grievance documents shall be stored at the facility ~~and/or~~ institution where the grievance issue occurred. The results of the grievance shall be ~~stored in~~ input into NOTIS.
  - A. Grievance files shall be in separate files for each inmateoffender and maintained in alphabetical order.
  - B. Grievance copies shall not be placed in an inmateoffender's Institutional (I-file) or Central File, nor shall they be available to employees not involved in the grievance process, unless the employee has a need for the information in the grievance or the responses to the grievance.
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 only.
4. InmateOffenders will not have access to grievance records unless ordered by a court, as grievance records are considered confidential and they may be redacted, if appropriate.
5. Upon completion of each level of the grievance process, the form and copies of all relevant attachments shall be maintained in the inmateoffender's separate grievance file. Originals shall be given to the inmateoffender.

#### 740.03 GRIEVANCE ISSUES

1. InmateOffenders may use the InmateOffender Grievance Procedure to resolve addressable inmateoffender claims, only if the inmateoffender can factually demonstrate a loss or harm. Grievances may be filed to include, 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. The inmateoffender must state the action or remedy that will satisfy the claim in the grievance.
  - A. If the inmateoffender does not factually demonstrate a loss or harm and does not state the action or remedy that will satisfy the claim in the grievance, the grievance will not be accepted and returned to the inmateoffender with an explanation as to what was missing in order for the grievance to be processed.

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- B. A ~~Grievance~~-grievance will not be used as an ~~ann DOC 3012~~ ~~inmate~~Offender Request Form (DOC 3012) (~~DOC 3012~~) to advise staff of issues, actions or conditions that they do not like, but suffered no harm or loss.
      - C. ~~Grievance~~ A grievance must be legible, with a clearly defined remedy requested.
    2. All allegations of ~~inmate~~offender abuse by Department staff, employees, agents, ~~and~~/or independent contractors, shall be immediately reported to the Warden, AWs, and the ~~IG~~Inspector General's Office, in accordance with investigator guidelines ~~via~~ ~~in~~ the NOTIS reporting system.
      - A. Any grievance reporting ~~of~~ sexual abuse against an ~~inmate~~offender will be referred to the Warden or designee for entry into the NOTIS reporting system and referral to the ~~Office of the Inspector General~~IG.
      - B. ~~Inmate~~Offenders who allege abuse other than sexual abuse, will be interviewed by a supervisor of the staff who allegedly committed the abuse to ascertain if he/she agrees to pursue administrative remedies, which will be documented in the NOTIS system.
    3. All allegations of discrimination on the basis of disability shall be forwarded to the Facility ADA Compliance Coordinator and Associate Warden of Programs for expedited review and addressed by appropriate action. The time limit for a response to the informal grievance related to disability discrimination is fourteen (14) calendar days from the date the grievance is received by the ADA Facility Coordinator to the date returned to the inmateoffender.
    4. Only ~~inmate~~offender 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.
      - D. Medical diagnosis, medication or treatment/care provided by a private/contract community hospital.
  45. Claims for which the ~~inmate~~offender lacks standing will not be accepted, including, but not limited to:
    - A. Filing a grievance on behalf of another ~~inmate~~offender, unless the ~~inmate~~offender is so physically or emotionally handicapped ~~as to be~~ and is

- incapable of filing a grievance, and with the other inmateoffender's approval, or in the case(s) of any third party reporting of Sexual sexual Abuseabuse.
- B. The inmateoffender filing the grievance was not a direct participant in the matter being grieved, except a third party allegation of sexual abuse.
  - C. An inmateoffender may not file more than one (1) grievance per seven (7) day week, Monday through Sunday. More than one (1) grievance filed during the seven day week period will not be accepted, unless it alleges sexual abuse or it is an emergency grievance that involves health or safety claims.
  - D. The inclusion of more than one grievance issue, per form. ~~form will be cause for the grievance to not be accepted.~~
  - E. Grievances that have the same issue in a previously filed grievance ~~will not be accepted~~, even if the requested action or remedy is different on the subsequent grievance.
56. In the event an inmateoffender's claim is ~~not accepted~~ NOT ACCEPTED or not within the intended scope of this Regulation, the inmateoffender may not appeal that decision to the next procedural level. Instead, the offender must correct the issues that led to the grievance being rejected, and follow the instructions provided on the Improper Grievance Memorandum DOC Form 3098 the offender will receive at the time the rejected or NOT ACCEPTED grievance is returned.
67. An inmateoffender whose grievance is denied in its entirety, may appeal the grievance to the next level, within the substantive and procedural requirements outlined herein, unless the action requested has already been gGranted at a lower level.
- A. Administrators or employees of the institution shall automatically allow appeals, without interference unless the grievance is granted.
  - B. An inmateoffender's ~~election not refusal~~ to sign and date any grievance form, at any level, shall constitute abandonment of the claim.
  - C. If the Ggrievance is "Granted" GRANTED or resolved by SETTLEMENT at any level, the grievance process is considered complete, and the inmateoffender's administrative remedies exhausted, and the inmateoffender cannot appeal the decision to a higher level.
  - D. If the gGrievance is PARTIALLY GRANTED, DENIED, or RESOLVED at any level, the offender must appeal the response to the next grievance level in order for the grievance process to be considered complete and for the offender's administrative remedies to be considered exhausted. If the

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offender does not timely appeal these grievances to the next level in the grievance process, it will be considered ABANDONED or WITHDRAWN.

- ~~78.~~ Time limits shall begin ~~to run~~ from the date an inmateoffender receives a response.
- ~~89.~~ An overdue grievance response, at any level, is not an automatic finding for the inmateoffender.
- A. The response must be completed, even if it is overdue.
  - B. The inmateoffender may proceed to the next grievance level, if a response is overdue.
  - ~~C.~~ The overdue response does not count against the inmateoffender's timeframe for an appeal if he or she waits for the response before initiating the appeal.
  - ~~C.D.~~ While an overdue grievance at any level is not an automatic finding for the offender, if the Second Level Grievance response is overdue by more than 60 days, the offender must follow the procedures set forth in AR 740.10(4).4.
- ~~910.~~ InmateOffenders who participate in and/or utilize the InmateOffender Grievance Procedure shall not be subjected to retaliation (i.e., an assertion that an employee took some adverse action against an inmateoffender for filing a grievance), ~~except as noted in 740.05, where the action did not reasonably advance a legitimate correctional goal.~~
- A. Retaliation is a grievable issue.
  - B. An unfounded claim of retaliation will be handled as an abuse of the grievance procedure and a disciplinary action may be taken.
- ~~1011.~~ Comprehensive responses are required for inmateoffender grievances. Statements such as "Your grievance is denied" are not acceptable. An explanation is necessary.

#### **740.04 ABUSE OF THE INMATEOFFENDER GRIEVANCE PROCEDURE**

1. InmateOffenders are encouraged to use the OF Grievance Procedure to resolve addressable claims ~~where~~ the inmateoffender can define a specific loss or harm; however, they are prohibited from abusing the system by knowingly, willfully or maliciously filing excessive, frivolous or vexatious grievances, which are considered to be an abuse of the InmateOffender Grievance Procedure. Any of the below listed violations will result in the grievance being not accepted and disciplinary action may be taken.

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2. ~~It is considered a~~abuse of the ~~inmate~~Offender ~~grievance~~Grievance procedure  
Procedure is considered when an ~~inmate~~offender 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~~offender.
    - C. Filing two (2) or more emergency grievances in a seven (7) day week period, Monday through Sunday which ~~is~~are deemed not to be emergencies may result in disciplinary action against the ~~inmate~~offender for abuse of the grievance system. Disciplinary action may be generated by the Warden or designee for abuse of the emergency grievance process.
    - D. Obscene, profane, and derogatory language.
    - E. Contains more than one (1) appropriate issue, per grievance.
    - F. The claim or requested remedy changes or is modified from one level to another.
    - G. More than two (2) ~~continuation forms~~Grievant's Statement Continuation form (DOC 3097) per grievance.
    - H. Alteration of the grievance forms or continuation forms. This includes writing more than one line, on each line provided on the grievance form.
  3. If an ~~inmate~~offender files a grievance as listed in (2), the Grievance Coordinator shall:
    - A. Return the original improper grievance with an Improper Grievance Memorandum Form (DOC-3098), Improper Grievance Memorandum, noting the specific violation.
    - B. A copy will be put in the ~~inmate~~offender's grievance file.
  4. An ~~inmate~~offender who satisfies the criteria contained in 740.04.2 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. If the recommendation is approved the Warden can assign the appropriate level supervisor or administrator to ~~write~~issue a Notice of Charges (NOC) ~~on~~to the ~~inmate~~offender.



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- D. The supervisor or administrator will forward the Notice of Charges NOC to the Warden for processing through the inmateoffender disciplinary process.
  - E. A conduct violation of this nature is not a form of retaliation.
  - F. An inmateoffender may not be disciplined for filing a grievance related to alleged sexual abuse unless the Department has demonstrated that the inmateoffender filed the grievance in bad faith.
  - G. NDOC will not respond to an improper grievance that results in an Improper Grievance Memorandum DOC-3098 under AR 740.

#### 740.05 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. Grievance Remedies available ~~for grievances~~ may include, but are not limited to, the following:
  - A. Resolve unsafe or unsanitary conditions of confinement.
  - B. Address the violation of an inmateoffender's constitutional, civil or statutory rights.
  - C. Protect inmateoffenders from criminal or prohibited acts committed by Departmental employees and staff or other inmateoffenders.
  - D. Revise, clarify and implement written Departmental and institutional rules or procedures necessary to prevent further violations.
  - E. ~~To provide~~ Provide an inmateoffender with a disability disabled or physically impaired inmate with reasonable accommodation or reasonable modification.
  - F. Monetary reimbursement for property loss, damage, personal injury, tort, or civil rights claims arising out of an act or omission of the Nevada Department of Corrections or any of its agents, former officers, employees or contractors.
3. The staff person rendering a decision on a grievance for a proposed monetary remedy, may ~~be submitted~~ submit their findings to the Deputy Director ~~of~~ Support Services, who may award monetary damages, at any level of the InmateOffender Grievance. Once approved:

- A. An Administrative Claim Release Agreement (Form-DOC-3096), ~~Administrative Claim Release Agreement~~, will be completed and submitted by the inmateoffender on all monetary claims, except for personal property damage or loss.
  - B. A Property Claim Release Agreement (Form-DOC-3027), ~~Property Claim Release Agreement~~, will be completed and submitted by the inmateoffender on all monetary claims for personal property damage or loss.
  - C. When property claims are settled informally at an institution, a Property Claim Release Agreement (DOC-3027) ~~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).

#### 740.06 INMATEOFFENDER TRANSFERS

1. InmateOffenders 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 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 inmateoffender has been transferred. Grievances shall be processed as soon as practicable and timeframes shall be adhered to as closely as possible. If an inmateoffender's sentence expires and/or they leaves the Department on parole, the grievance will be finalized on-at the current level. No further appeal may occur. It is the responsibility of the inmateoffender to provide a forwarding address during the release process in order to receive a grievance response.

#### 740.07 EMERGENCY GRIEVANCE PROCEDURE

1. An emergency shall be considered life threatening for the inmateoffender or a Safety safety and Security-security risk for the institution.
2. An Emergency Grievance (~~(Form-DOC-1564)~~) received by any staff member shall be immediately delivered to the nearest supervisor, no later than is reasonable and necessary, to prevent serious injury or a breach of security. The Emergency Grievance shall be reviewed within 24-hours of receipt and documented in NOTIS.
3. Any emergency grievance alleging that an inmateoffender is subject to substantial risk of imminent sexual abuse, shall-must be immediately forwarded to the highest ranking staff

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- member on duty so that corrective action may be taken immediately, which may include moving the inmateoffender to administrative segregation for protective custody.
- A. The inmateoffender shall receive a response to the emergency grievance within 24-24 hours, with a final facility decision about whether the inmateoffender is in substantial risk of imminent sexual abuse within two (2) regular calendar days.
  - B. The response, final decision and the action taken in response to the emergency ~~Emergency grievance~~ Grievance will be documented. Action taken can include, but is not limited to:
    - (1) Refer the information to the ~~Inspector General's Office~~;
    - (2) Afford the inmateoffender appropriate medical, mental health care; and
    - (3) Address any safety considerations.
4. The shift supervisor may confer with the on duty medical staff, Warden or Associate Warden, to determine whether the grievance constitutes an emergency.
  5. 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.
  6. The Department official receiving the Emergency Grievance should respond to the filing inmateoffender no later than is necessary to prevent serious injury or a breach of security.
  7. In the event the inmateoffender requests further review of a claim not deemed an emergency, the inmateoffender may file a grievance appeal commencing at the Informal Level.
  8. A copy of the emergency grievance will be forwarded to the Grievance Coordinator for entry into NOTIS for processing and tracking purposes.

#### 740.08 INFORMAL GRIEVANCE

1. At the Informal Level, an inmateoffender shall file an Informal Grievance (~~grievance Form~~ DOC-3091) after failing to resolve the matter by other means such as discussion with staff or submitting an inmateOffender request Request form Form ((DOC 3012)).
2. Grievances should be reviewed, investigated and responded to by the Department Supervisor that has responsibility over the issue that is being grieved or designated person.

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- A. High Risk Prisoner (HRP) status. HRP is a high risk ~~potential~~-offender that creates risk to other inmateoffenders and staff.
    - (1) Informal Level grievances will be responded to by the Warden or designee.
    - (2) First Level grievances will be responded to by the Deputy Director or designee.
    - (3) Second level grievances will be responded to by the Director or designee.
  - B. Informal grievances addressing medical or dental issues should be responded to by ~~a-the~~ charge Charge nurse-Nurse or designee of the Director of Nursing at the institution.
  - C. Informal grievances addressing mental health issues should be responded to by the Psychologist III, or Mental Health Supervisor at each facility.
  - D. Informal grievances addressing discrimination on the basis of disability shall be forwarded to the Facility ADA Coordinator ~~and/or Associate Warden of Programs~~ for expedited review and addressed by appropriate action.
  - E. If the person who would normally respond to a grievance is the subject of the grievance, the Supervisor over the person should respond to the Informal Grievance.
3. The response to the grievance should be substantial, referencing all policies, procedures, rationale, and/or circumstances in finding for or against the inmateoffender.
  4. The inmateoffender shall file an informal grievance within the time frames noted below:
    - A. Within six (6) months, in compliance with NRS 209.243, 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) calendar 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 inmateoffender's control, the time will begin to start from the date in which such circumstances cease to exist.
    - D. Time frames are waived for allegations of sexual abuse and disability discrimination regardless of when the incident is alleged to have occurred.

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5. An inmateoffender shall use a Grievant's Statement Continuation Form (DOC-3097), ~~Grievant Statement Continuation Form~~, if unable to present the details of their claim in the space provided, limited to two continuation form pages for a maximum of two continuation form pages. All documentation and factual allegations available to the inmateoffender must be submitted at this level with the grievance.
  6. All grievances submitted should also include the remedy sought by the inmateoffender to resolve this claim. Failure to submit a remedy will be considered an improper grievance and shall not be accepted.
  7. If the inmateoffender's remedy to their grievance includes monetary restitution or damages, then the inmateoffender will get the following forms from unit staff, unit ~~caseworker~~ CCS, or law libraries:
    - A. Offender Personal Property Claim Form (DOC-3026), ~~InmateOffender Property Claim~~, which shall be completed and submitted in addition to the grievance for all property loss or damage claims.
    - B. Administrative Claim Form (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 inmateoffender to submit a proper Informal Grievance (DOC 3091) form to the Grievance Coordinator or designated employee, within the time frame noted in 740.08.4, ~~number 4~~, shall constitute abandonment of the inmateoffender's grievance at this, and all subsequent levels.
    - A. When overdue grievances are received, they will be logged into NOTIS.
    - B. The ~~grievance response~~ Improper Grievance Memorandum (Form-DOC-3098) will note that the inmateoffender exceeded the timeframe and no action will be taken.
  9. If the issue raised is not grievable, or the grievance is a duplicate of a prior grievance, the Grievance Coordinator will return the grievance to the inmateoffender with an Improper Grievance Memorandum (DOC Form-3098) noting the reason.
  10. The inmateoffender shall file an Informal Grievance (DOC 3091) ~~form~~ that states "for tracking purposes" when an issue goes directly to the Warden (first level) for a decision such as disciplinary appeals, visiting denials, any allegation of sexual abuse or mail censorship.
  11. Grievances alleging staff misconduct pursuant to Administrative Regulation (~~AR~~) 339 ~~"Employee Ethics and Conduct, Corrective or Disciplinary Action, and Prohibitions and Penalties~~ Code of Ethics Employee Conduct" will be reviewed by the Warden and if deemed appropriate will be forwarded to the ~~Office of the~~ Inspector General through NOTIS.

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- A. The Informal Response will reflect this action being initiated.
  - B. The ~~Inspector General's Office~~ will have 90 calendar days to respond to this allegation.
12. The time limit for a response to the informal grievance is forty-five (45) calendar days from the date the grievance is received by the grievance coordinator to the date returned to the ~~inmateoffender~~. The time limit for a response to the informal grievance related to disability discrimination is fourteen (14) calendar days from the date the grievance is received by the ADA Facility Coordinator to the date returned to the inmateoffender.
- A. The ~~inmateoffender~~ must file an appeal within five (5) calendar 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.

#### 740.09 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. The grievance will be responded to by a supervisor that has authority over the issue claimed in the grievance.
  - B. First Level medical/dental issues should be responded to by the highest level of Nursing-nursing Administration-administration at the institution, the (Director of Nursing (DON)ONs I or II).
  - C. First Level mental health issues should be responded to by the Psychologist IV or highest ranking Psychologist at the institution.
  - D. First Level property issues should be responded to by the Associate Warden ~~of~~ Operations.
2. All grievances containing allegations of sexual abuse will be referred to the ~~Inspector General's Office~~ for investigation.
  - A. Allegations of sexual abuse will not be referred to a staff member who is the subject of the accusation of sexual abuse.
  - B. The ~~Inspector General's Office~~ shall make a final decision on the merits of any portion of the sexual abuse grievance within 90 calendar days of the

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initial filing of the grievance and if applicable the matter assigned for official investigation.

- C. The ~~Inspector General's Office~~ may claim an extension of time to respond to a sexual abuse grievance of up to an additional 70 calendar days if the normal time period for response is insufficient to make an appropriate decision.
  - D. The ~~Inspector General's Office~~ shall notify the inmateoffender in writing of any such extension and provide a date by which a decision will be made.
  - E. Upon the completion of the investigation into sexual abuse the inmateoffender shall be informed of the outcome of the investigation by the ~~Inspector General's Office~~.
3. All grievances containing allegations of disability discrimination will be referred to the statewide ADA Compliance Officer for investigation.
4. At this level the inmateoffender shall provide a justification to- continue to the first level.
45. A First Level Grievance that does not comply with procedural guidelines shall be returned to the inmateoffender, with instructions using the Improper Grievance Memorandum (Form-DOC-3098).
- A. Third parties, including fellow inmateoffenders, staff members, family members, attorneys, and outside advocates shall be permitted to assist inmateoffenders in filing a grievance(s) relating to allegations of sexual abuse.
  - B. If a third party files on behalf of the inmateoffender, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf.
  - C. If a third party files on behalf of the inmateoffender, the facility may also require as a condition of processing the grievance, the alleged victim to personally pursue any subsequent steps in the grievance process.
56. The time limit for a response to the inmateoffender for the First Level grievance is forty-five (45) calendar days from the date the grievance is received by the grievance coordinator to the date returned to inmateoffender.
- A. The inmateoffender must file an appeal within five (5) calendar 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.

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## 740.10 SECOND LEVEL GRIEVANCE

1. A Second Level Grievance (~~(Form~~ DOC -3094)) should be reviewed and responded to by the:
  - A. Deputy Director ~~of~~ Operations (DDO) for facility custody or security operations that do not include programs.
  - B. Deputy Director ~~of~~ Programs (DDP) for all program issues such as education, visiting, or religious programming.
  - C. The Deputy Director ~~of~~ Support Services (DDSS) for fiscal, property and telephone issues.
  - D. The Offender Management Administrator (OMA) for classification and timekeeping issues.
  - E. The Medical Director for medical/ dental issues, including medical co-pays or charges.
  - F. The Mental Health Director for mental health issues.
  - G. The offender may appeal the decision related to a sexual abuse grievance response from the ~~Inspector General's Office~~ within five (5) calendar days of the grievance. The appeal should be reviewed and responded to by the Deputy Director ~~of~~ Operations or Deputy Director ~~of~~ Programs. The inmate/offender may appeal the decision related to a sexual abuse grievance response from the ~~Inspector General's Office~~ within five (5) calendar days of the grievance, with a subsequent response from the Deputy Director for security, program, religious and operations.
2. The Grievance Coordinator shall forward copies of all related documents and the appeal to the Deputy Director for review and distribution to other Appointing Authorities and Division Heads.
3. The time limit for a response to the ~~inmate/offender~~ for the Second Level grievance is sixty (60) calendar days, not including transmittal time, from the date the grievance is received by the ~~grievance Grievance coordinator~~ Grievance Coordinator to the date it is returned to ~~inmate/offender~~.
4. If the second level grievance is not responded to within sixty (60) calendar days, the inmate/offender must submit an Offender Request Form (DOC 3012) (Kite) kite to the individual responsible for providing the response to the second level grievance. The kite Offender Request Form (DOC 3012) ~~DOC 3012~~ must either attach/include a copy of the overdue grievance, or alternatively, provide the grievance number so that the individual responsible for providing a response will be able to ascertain which grievance the



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inmateoffender is referencing in the kiteDOC 3012. If the individual does not provide a response to the kiteDOC 3012 seeking a response or to the underlying grievance within sixty (60) days of receipt of the kiteDOC 3012 seeking a response, the inmateoffender will have exhausted the administrative remedy process. The response provided to the inmateoffender may inform the inmateoffender that additional time is necessary to respond as opposed to response on the merits of the grievance. If the response informs the inmate that additional time is necessary, then the inmateoffender must be provided the timeframe in which a response will be provided. If that timeline is not met, the grievance process will be considered exhausted.

5. Administrators shall respond to the Second Level Grievance, specifying the decision and the reasons for the decision, and return it to the Grievance Coordinator.

### APPLICABILITY

1. This regulation requires an operational procedure for each institution and facility.
2. This regulation requires an audit.

### REFERENCES

ACA Standards, 4th-5<sup>th</sup> Edition and 2008 Supplement, 5-ACI-1F-11, 5-ACI-3D-03, 5-ACI-3D-19, 5-ACI-5E-02, 5-ACI-5E-03, 5-ACI-6A-01, 5-ACI-6B-02, 5-ACI-6C-01, 5-ACI-6D-02 4-4105, 4-4276, 4-4284, 4-4344, 4-4394, 4-4429, 4-4429-1

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James DzurendaCharles Daniels, Director

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Date