

conferences and enter into OAH settlement agreements consistent with the procedures established in this DCD and OAH Rules of Procedure.

VI. Procedure:

A. Headquarters Responsibilities

1. Commissioner:

The Commissioner is responsible for the overall operation of the Division's Inmate Grievance Program and has designated the Deputy Commissioner as the final reviewing authority before execution of a settlement agreement.

2. Deputy Commissioner:

The Deputy Commissioner is responsible for approving or disapproving settlement agreements submitted by the warden.

- a. If the Deputy Commissioner ratifies a recommendation by the warden to settle a case, the settlement agreement, all associated documentation, and Appendix 1, Recommendation for Approval of Settlement Agreement, will be returned to the appropriate warden within 15 calendar days of receipt of the warden's recommendation with written instructions in section III. of Appendix 1 to take the steps necessary to implement the provisions of the agreement no later than 15 calendar days from the date of receipt of ratification.
- b. If the Deputy Commissioner disapproves a recommendation by the warden to settle a case, the settlement agreement, all associated documentation, and Appendix 1 will be returned to the appropriate warden within 15 calendar days of receipt of the warden's recommendation with written rationale for not ratifying the contract and instructions to notify all parties in interest of the decision.

3. Headquarters Inmate Grievance Coordinator:

The headquarters inmate grievance coordinator shall:

- a. preliminarily review the recommendation for settlement submitted by the warden, the settlement agreement, and the associated documentation;
- b. provide a typewritten recommendation in section III. of Appendix 1 to the Deputy Commissioner to approve or disapprove the settlement agreement; and,

- c. ensure that Appendix 1, the settlement agreement, and all associated documentation are forwarded to the appropriate warden.

B. Institutional Responsibilities

1. Warden:

The warden is responsible for reviewing and making recommendations on settlement agreements entered into by the institutional inmate grievance representative no later than 15 calendar days from the date of receipt of written confirmation of the agreement from the judge.

- a. If the warden recommends that a settlement agreement be approved, the warden shall ensure that section II. of Appendix 1 is completed and forwarded to the Deputy Commissioner for review and finalization along with the settlement agreement and all associated documentation.
- b. If the warden disapproves a settlement agreement, the warden shall ensure that section II. of Appendix 1 is completed and that the following persons are advised, in writing, of the decision:
 - (1) the inmate grievant;
 - (2) the appropriate judge; and,
 - (3) the executive director of the Inmate Grievance Office.

2. Assistant Warden:

In the warden's absence, the assistant warden shall review and process settlement agreements consistent with the procedures in section VI.B.1 of this directive.

3. Institutional Inmate Grievance Representative:

- a. Only the inmate grievance representative of the institution where the complaint originated may enter into an agreement to settle.
- b. Upon entering into an agreement to settle, the institutional inmate grievance representative shall ensure that the issue subject to settlement is one which can be resolved appropriately and consistent with established procedures and statutory provisions. The following issues are not negotiable and shall not be the subject of settlement:
 - (1) sentence calculation and diminution of confinement questions;

- (2) classification recommendations and decisions;
 - (3) Maryland Parole Commission procedures and decisions;
 - (4) appeals of decisions to withhold mail;
 - (5) adjustment hearing recommendations and decisions;
 - (6) allegations of use of excessive force by staff;
 - (7) cases which may involve personnel action against staff;
 - (8) matters which would result in modification to existing Division-wide policies and procedures;
 - (9) cases involving requests for monetary compensation (to include property reimbursement requests);
 - (10) medical/mental health-related complaints;
 - (11) any other issues based upon an interpretation of state law.
- c. Upon receipt of the confirmed settlement agreement from the judge, the institutional inmate grievance representative shall ensure that the warden is provided with the following:
- (1) the confirmed settlement agreement;
 - (2) all supporting documentation regarding the case; and,
 - (3) Appendix 1 with typewritten rationale for recommending approval.
- d. If the warden recommends that the settlement agreement be approved, the institutional inmate grievance representative, no later than 5 working days from the date of the warden's recommendation, shall:
- (1) pursuant to the OBSCIS I Training Manual, enter onto OBSCIS I, Screen 15, Maintain Schedule Data, the warden's recommendation to approve, the date the recommendation is made, and document this information in the inmate base file; and,
 - (2) forward all information enumerated in section VI.B.3.c. of this directive to the Deputy Commissioner.
- e. If the warden disapproves the settlement agreement, the institutional inmate grievance representative, no later than 5 working days from the date of the warden's decision, shall:

- (1) enter onto OBSCIS, Screen 15, the warden's decision to disapprove, the date the decision is made, and document this information in the inmate base file; and,
 - (2) prepare correspondence for the warden's signature advising the following persons of the decision to disapprove:
 - (a) the inmate grievant;
 - (b) the appropriate judge; and,
 - (c) the executive director of the IGO.
- f. No later than 15 calendar days from receipt of the Deputy Commissioner's ratification of the settlement agreement, the institutional inmate grievance representative shall:
- (1) prepare correspondence for the warden's signature advising the following persons of the Deputy Commissioner's decision to ratify the settlement agreement and the action taken to comply with the agreement:
 - (a) the inmate grievant;
 - (b) the appropriate judge; and,
 - (c) the executive director of the IGO;
 - (2) enter onto OBSCIS I, Screen 15, the Deputy Commissioner's decision to ratify the warden's recommendation and the date of the decision;
 - (3) prepare correspondence for the warden's signature to the Deputy Commissioner advising of what action has been taken to comply with the settlement agreement and forward written certification to the Deputy Commissioner; and,
 - (4) maintain the original material in the grievance case file.
- g. No later than 15 calendar days from receipt of the Deputy Commissioner's decision not to ratify the settlement agreement, the institutional inmate grievance representative shall:
- (1) prepare correspondence for the warden's signature advising the following persons of the Deputy Commissioner's decision not to ratify the settlement agreement:
 - (a) the inmate grievant;

- (b) the appropriate judge; and,
 - (c) the executive director of the IGO;
 - 2. enter onto OBSCIS I, Screen 15, the Deputy Commissioner's decision not to ratify the warden's recommendation and the date of the decision.
 - 3. maintain the original material in the grievance case file.
- C. If the warden recommends that a settlement agreement be approved which, by agreement of the parties, establishes a specific period of time for settlement, the warden shall:
- 1. Ensure that the completed Appendix 1, the settlement agreement, and all associated documentation is forwarded to the Deputy Commissioner to permit review and appropriate action in accordance with the procedures established in section VI.A. of this DCD; and,
 - 2. With the exception of the 15 calendar day time requirement, ensure compliance with the procedures established in section VI.B.3.f. or VI. B.3.g. of this DCD consistent with the time frame established in the agreement for settlement.
- D. A settlement agreement may not be modified or reversed in whole or in part.
- E. No representative has the authority to enter into any settlement agreement that does not contain the following condition which shall be stated on Appendix 1 to this DCD:
- “Upon the Division of Correction’s compliance with the terms and conditions set forth above, this agreement shall release the State of Maryland, its agents, and its employees from monetary liability or obligation of any kind in any court of this State or of the United States with regard to the conduct that is the subject matter of the instant complaint.”
- F. No further action will be taken by the Division after final disposition of a settlement agreement unless the case is remanded to the OAH by the IGO for a grievance hearing.
- G. The warden shall ensure that all case information and correspondence associated with the agreement, whether approved or disapproved, is maintained in accordance with existing Inmate Grievance Program records management procedures.
- H. No institutional directive is required.

VII. Attachment: Appendix 1 – Recommendation for Approval of Settlement Agreement (DC Form 180-005aR)

Appendix 2 – Maryland Office of Administrative Hearings Settlement Agreement Form (OAH-OPER-06)

VIII. Rescission: None

Distribution:

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