
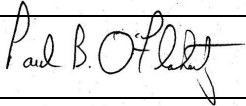
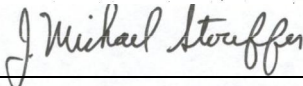


STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
DIVISION OF CORRECTION

 DIVISION OF CORRECTION DIRECTIVE	PROGRAM:	ADMINISTRATIVE REMEDY PROCEDURES	
	DCD #:	185-004	
	TITLE:	Headquarters Administrative Remedy Procedures	
	ISSUED:	August 10, 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 DOC inmates housed in DOC institutions and facilities and all DOC staff.
- III. Purpose: To establish procedure for the Commissioner and all DOC 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. Requests for administrative remedy and appeals under the Administrative Remedy Procedure shall be answered on the merits and substantive relief provided to the inmate where warranted.
 - B. 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.
- VI. Procedures:
 - A. The Commissioner may designate an Assistant Commissioner to manage and supervise the administrative remedy procedure.

B. Commissioner or Designee

1. An Assistant Commissioner is responsible for the operation of the administrative remedy procedure at the headquarters level.
2. The Assistant Commissioner is responsible for ensuring compliance with all provisions of the directives. The Assistant Commissioner shall:
 - a. Designate a headquarters administrative remedy coordinator;
 - b. Designate appropriate departmental supervisors at division headquarters to serve as investigators and/or to delegate investigations to departmental staff;
 - c. Ensure that division staff and inmates use the administrative remedy procedure in good faith to effectively resolve inmate complaints at the lowest possible level;
 - d. Direct, control, and supervise wardens in the institutional operation of the administrative remedy procedure;
 - e. Ensure the use of the administrative remedy procedure as a management tool to help identify problems with specific services and programs in specific institutions, or deficiencies in division policies or procedures that indicate a need for reevaluation, change, or staff training; and
 - f. Respond to all appeals within the prescribed time frame.

C. Administrative Remedy Coordinator

1. The headquarters administrative remedy coordinator is responsible for managing the operation of the administrative remedy procedure at the headquarters level.
2. The coordinator shall:
 - a. Process all appeals submitted through the administrative remedy procedure;
 - b. Ensure that all headquarters staff responsibilities for administrative remedy are completed consistent with established procedures;
 - c. Report to the Assistant Commissioner any non-compliance with procedures which affect the ability to meet established time frames;
 - d. Receive, acknowledge, and direct the investigation of a headquarters appeal of administrative remedy response;
 - e. Ensure that all headquarters records relating to the administrative remedy procedure are properly maintained;
 - f. Develop training resources and develop and implement programs for the training of coordinators and investigators;

- g. Monitor and ensure institutional compliance with this series of directives by conducting on-site audits in accordance with this directive.

D. Investigators

1. Headquarters investigators shall investigate each case assigned to them or assign the case to an employee within that department.
2. Headquarters investigators shall be responsible and accountable for submitting completed investigations to the headquarters administrative remedy coordinator by the due date.

E. Preliminary Review of an Appeal

1. Inmates shall follow the instructions for submitting an appeal as stated in DCD 185-002.
2. The headquarter's coordinator shall review the appeal for completeness. The coordinator shall dismiss an appeal for procedural reasons pending resubmission when the inmate has failed to complete the Headquarters Appeal of Administrative Remedy Response form properly or when the inmate has failed to provide sufficient information for indexing or investigating the appeal or both.. The coordinator shall:
 - a. Provide in the receipt portion, Part C, of the Headquarters Appeal of Administrative Remedy Response form the reason(s) why the form is not complete or the reason(s) why the appeal is not sufficient;
 - b. Provide specific instructions for the inmate to complete the form properly and the specific date by which the inmate may resubmit the appeal to the commissioner (at least 15 calendar days); and
 - c. Return the appeal and a blank Headquarters Appeal of Administrative Remedy Response form to the inmate.
3. Failure by the inmate to resubmit the appeal in accordance with the instructions or on time shall result in a final dismissal for procedural reasons and no further action shall be taken to resolve the complaint through the administrative remedy procedure.
4. The headquarter's coordinator shall review the appeal for timeliness. An appeal which is not received within 30 calendar days of the date the inmate receives the Warden's response, or within 30 calendar days of the date the response from the Warden was due shall be dismissed for procedural reasons as final by the headquarters coordinator as untimely. An appeal dismissed as untimely can not be resubmitted and no further action shall be taken to resolve the complaint through the administrative remedy procedure. The coordinator may, as necessary, refer such cases to appropriate headquarters staff for evaluation and follow-up outside of the administrative remedy procedure.

5. The headquarters' coordinator shall review the appeal to determine if the request is frivolous or malicious. The Commissioner or designee shall issue a final dismissal for procedural reasons when the request had been determined to be frivolous and/or malicious. The Commissioner or designee shall:
 - a. State that the request is dismissed for procedural reasons final without investigation as frivolous and/or malicious,
 - b. Sign and date Part B; and
 - c. Forward the request to the headquarters coordinator to be indexed, copied, and distributed.
6. Any request for administrative remedy submitted directly to the Commissioner without first being submitted to the Warden shall be redirected by the Commissioner to the Warden in accordance with DCD 185-002. These cases shall be noted on the headquarters index without a case number.
7. Within five working days of the date stamped received; the headquarters administrative remedy coordinator shall index the appeal using the assigned institutional case number.
8. The headquarters administrative remedy coordinator shall review the appeal to determine whether it is an appeal of dismissal for procedural reasons, appeal of no response from the Warden, or an appeal of the Warden's response.
9. An inmate who, for any reason, no longer wishes to pursue a complaint through the Administrative Remedy Procedure may elect to withdraw his/her request by submitting to the institutional or headquarters coordinator a completed Withdrawal Form, Appendix 5 to DCD 185-002. The coordinator shall:
 - a. Include the Withdrawal Form in the ARP file; and
 - b. Ensure the inmate is offered a copy.

F. Indexing

1. Cases shall be indexed as described in DCD 185-003 except that:
 - a. They shall retain the same case number given at the institution;
 - b. They will be maintained in alphabetical order by last name, then first name, then by the earliest case number; and
 - c. The index will be kept yearly and not be separated by each new month.
2. Complaints that are initial requests that should have been submitted to the Warden, but are incorrectly mailed to the Commissioner's attention shall be redirected to the Warden. These requests will not yet have an assigned case number but shall still be added to the headquarters index.

3. The headquarters coordinator shall maintain a centralized file of all closed administrative remedy requests and appeals with any investigative findings or documentation attached.
 - a. Files shall be maintained in alphabetical order by last name, then first name, then by the earliest case number.
 - b. Files from the previous year shall 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 kept for at least four years following the final disposition of the request and then destroyed.
 - c. The Commissioner may authorize these files to be stored electronically provided these files are recoverable should the institution's computers fail.

G. Appeals of Dismissal for Procedural Reasons

1. The headquarters coordinator shall review those appeals submitted which challenge the institutional coordinator's decision to dismiss a request for procedural reasons.
 - a. When the coordinator concurs with the institutional coordinator's rationale for dismissal, the appeal shall be dismissed for procedural reasons.
 - b. This dismissal of the appeal for procedural reasons is a final dismissal and no further action shall be taken to resolve the complaint through the administrative remedy procedure.
 - c. When the coordinator does not concur with the institutional coordinator's rationale for dismissal, the request shall be returned to the institutional coordinator.
 - d. The case shall retain the assigned case number and a receipt reflecting the new index date shall be issued to the inmate. The request shall be indexed and investigated in accordance with the procedures established in DCD 185-003.
2. Appeals which challenge the warden's dismissal of a request for procedural reasons as frivolous or malicious shall be:
 - a. Reviewed by the headquarters coordinator for timeliness, sufficiency, and completeness; and
 - b. Reviewed by the headquarters coordinator to determine whether the original request or the appeal is frivolous or malicious.
 - c. If the coordinator determines that the appeal is frivolous or malicious, the headquarters coordinator shall prepare a response for the Commissioner to dismiss the appeal for procedural reasons final based on the appeal or original request being frivolous or malicious.

- d. If the coordinator does not agree with the Warden that the appeal is frivolous or malicious, the appeal shall be accepted for investigation and the appeal shall be answered on its merit.
3. Copies of the appeal form shall be distributed as follows:
 - a. Original and one copy to the inmate;
 - b. One copy to the institutional coordinator for placement in the institution's administrative remedy file; and
 - c. One copy to the headquarters administrative remedy file.

H. Appeal of No Warden's Response

1. An inmate may submit a Headquarters Appeal of Administrative Remedy Response to the Commissioner as an appeal of no response if the warden has failed to respond to the inmate's request for administrative remedy within the proper time frame.
 - a. This appeal shall initiate an investigation of the complaint itself.
 - b. The inmate should include a statement that the appeal is being submitted due to the warden's failure to issue a response to the initial request.
 - c. The Commissioner may direct the Warden to investigate and prepare a response for the Commissioner's signature as described in DCD 185-002.
2. The Commissioner's response to an appeal of no response from the warden shall be the final step of the ARP process for that complaint.
3. Copies of the appeal form shall be distributed as follows:
 - a. Original and one copy to the inmate;
 - b. One copy to the institutional coordinator for placement in the institution's administrative remedy file; and
 - c. One copy to the headquarters administrative remedy file.

I. Appeal of the Warden's Response

1. If an inmate disagrees with the warden's response to a request for administrative remedy, the inmate may appeal the decision to the Commissioner by completing a Headquarters Appeal of Administrative Remedy Response form.
2. The inmate should follow the instructions on the back of the form for filing the appeal.
3. If this appeal is not dismissed for procedural reasons it shall be accepted for investigation.

- J. Accepting and Investigating an Appeal to a Request for Administrative Remedy
1. The headquarters coordinator shall accept the appeals for investigation and response which are not dismissed for procedural reasons. On the date the appeal is indexed, the coordinator shall:
 - a. Send the receipt portion, Part C, of the Headquarters Appeal of Administrative Remedy Response (Appendix 6 to DCD 185-002) to the inmate for any appeal accepted;
 - b. Review each appeal to determine the nature of the complaint and the headquarters departmental supervisor to whom the investigation should be assigned; and
 - c. Assign the investigation to the appropriate headquarters departmental supervisor for assignment to a headquarters investigator and completion of the investigation within twenty calendar days or less.
 2. Using the Headquarters Investigative Summary Appendix 1 to this directive, the headquarters investigator shall review the request for administrative remedy, the warden's response to the request, and the inmate's appeal to effectively establish the basis of the inmate's appeal.
 3. As part of every investigation, the headquarters investigator shall, at a minimum, establish contact with the institutional coordinator at the responding institution to:
 - a. Affirmatively establish the basis for the warden's response via case summary; and
 - b. Ensure and document that the institution's investigation was completed in accordance with the provisions of DCD 185-003.
 4. The headquarters investigator shall be authorized to request and obtain from the institutional coordinator all or any portion of the institution's administrative remedy case file to determine the basis for the warden's response or to confirm the proper completion of the institution's investigation.
 5. Upon completion of the Headquarters Investigative Summary, the headquarters investigator shall review the following to make a recommendation in the case:
 - a. The facts in the case;
 - b. The supporting documentation of events;
 - c. The sufficiency and completion of the institution's investigation; and
 - d. The basis and appropriateness of the warden's response.

6. Based on an assessment of the above factors, the headquarters investigator shall draft a suggested response recommending a finding of:
 - a. Meritorious;
 - b. Meritorious in part; or
 - c. Dismissal.
7. The headquarters investigator shall submit to the headquarters coordinator a report including all findings, recommendations, supporting documentation, and a suggested response.
8. The headquarters coordinator shall review the investigation for completion and sufficiency of documentation.
9. Investigations which are found by the headquarters coordinator to be incomplete or to contain insufficient documentation to support the recommended response shall be returned to the assigned investigator with specific instructions for reinvestigation and submission within a specified time frame.
10. All investigative reports shall be submitted within the time frame specified by the headquarters coordinator.
11. Upon receipt of a completed Headquarters Investigative Summary from the headquarters investigator, the headquarters coordinator shall review the summary, any documents and reports attached, and the investigator's final recommended response and draft an appropriate response for the review of the Commissioner or designee.
12. The response shall fully address only those issues which were raised in the appeal as well as in the inmate's request. New issues raised in the appeal which were not part of the inmate's request shall not be investigated, and it shall be clearly stated in the Commissioner's response that those issues shall not be addressed.
13. The appeal shall be found to be either:
 - a. Meritorious;
 - b. Meritorious in part; or
 - c. Dismissed.
14. The response shall state what specific relief or remedy is to be provided to the inmate, where applicable, as well as who shall provide the relief.
15. The Commissioner or designee shall review each appeal response to ensure that the response is appropriate. The Commissioner or designee shall:
 - a. Sign and date the appropriate response; or

- b. Return the response and investigative packet to the headquarters coordinator for:
 - (1) A reinvestigation for additional information; or
 - (2) An amended response for review and signature.
 - 16. The headquarters coordinator shall ensure that the completed Headquarters Appeal of Administrative Remedy Response form is distributed as follows:
 - a. Original and one copy to the inmate;
 - b. One copy to the institutional coordinator for placement in the institution's administrative remedy file; and
 - c. One copy to the headquarters administrative remedy file.
- K. Meritorious or Meritorious in Part Cases
- 1. When the disposition of an administrative remedy complaint is found to be meritorious or meritorious in part by the Commissioner, the Commissioner shall direct the appropriate headquarters departmental supervisor or the appropriate warden to take the action specified in the response.
 - 2. If the relief includes monetary reimbursement, the procedures in 185-003 shall be followed.
 - 3. The Commissioner shall ensure that written notification of the relief provided is sent to the headquarters administrative remedy coordinator within thirty calendar days of the date of the commissioner's response.
 - 4. The headquarters coordinator shall ensure that the relief specified by the commissioner is rendered within the time frame specified. The headquarters coordinator shall:
 - a. Maintain a file of appeal responses pending relief; and
 - b. Monitor the file for institutional or departmental compliance.
 - 5. Upon receipt of the written notification of the relief provided, the headquarters coordinator shall review the documentation to ensure that the relief provided fulfills the action ordered in the commissioner's response.
 - a. If the required action has been fulfilled, the documentation shall be attached to the headquarters copy of the appeal response, the inmate's appeal, and all investigative materials and filed in accordance with the procedures established in this directive.
 - b. If the action ordered in the response has not been fulfilled as specified, the headquarters coordinator shall notify the institutional coordinator that the relief provided has not fulfilled the action ordered by the Commissioner's response and provide specific instructions for the institutional coordinator to fulfill the Commissioner's order.

L. Audits

1. The audit team shall consist of the headquarters coordinator, who shall supervise the audit, and at least one institutional coordinator designated by the headquarters coordinator.
2. The dates and times of on-site audits shall be established by the commissioner or designee.
3. The commissioner or designee shall notify the warden of the facility of the date and time of any scheduled audit.
4. An entrance interview shall be conducted. Upon arrival, the audit team shall meet with the Warden/designee to explain the purpose of the audit and provide a general overview of the audit plan.
5. All members of the audit team and the institutional coordinator of the facility shall be present throughout the audit. At a minimum, the audit shall include:
 - a. An examination of the administrative remedy procedure files and indexes to determine accuracy;
 - b. An examination of investigations to ensure completeness and thorough documentation;
 - c. An examination of the administrative remedy procedure, in practice as well as theory, to ensure compliance with this series of directives;
 - d. An examination of meritorious requests and the implementation of any remedies granted; and
 - e. Interviews with randomly selected inmates and staff to assess their satisfaction with the administrative remedy procedure.
6. At the conclusion of the audit, the audit team shall meet with the warden or designee to provide an overview of the audit findings.
7. The headquarters coordinator shall provide the Commissioner or designee with an audit report within 30 calendar days of the date of audit completion.
8. The Commissioner or designee shall provide a copy of the report to the warden, who shall respond to the audit report within thirty days and provide a plan of corrective action if necessary.
9. A facility is subject to an unannounced audit or a re-audit to determine the level of compliance with the plan of corrective action at any time.

VII. Attachments: Appendix 1, Headquarters Investigative Summary, DOC Form 185-004aR (Rev. 8/08)

VIII. Rescissions: None.

Distribution: A

L

S - All Administrative Remedy Coordinators
All Inmate Grievance Coordinators