



---

***Division of Prisons  
Policy and Procedure***

---

**Chapter:** G  
**Section:** .0300  
**Title:** Administrative Remedy Procedures  
**Issue Date:** July 1, 2023  
**Supersedes:** August 1, 2013  
DRAFT

References

5<sup>th</sup> Edition Standards for Adult Correctional Institutions

Related ACA Standards

North Carolina General Statute (NCGS)

**.0301 PURPOSE**

- (a) The policy of the North Carolina Department of Adult Correction (DAC), Division of Prisons (DOP) is to provide offenders an opportunity for administrative settlement of legitimate grievances. Most grievances can be resolved quickly through informal communication with responsible authorities at the facility in which the problem arose. An offender should be encouraged to use this method prior to the initiation of a formal grievance.
- (b) When this method is not possible, DAC seeks to reduce tension and provide a stable atmosphere by providing formal channels of communication of grievances by utilizing the Administrative Remedy Procedure (ARP).
- (c) A formal grievance is a written complaint, submitted either in paper form on a Form DC-410, or when permitted, electronic form, by an offender on the offender's own behalf concerning an action, incident, policy, or condition within a prison facility.
- (d) The ARP shall afford a successful grievant a meaningful remedy to include but not be limited to, an order requiring that specific action be taken, modification of a Prison policy, restoration or restitution for personal property, and such other remedies that will meaningfully resolve the grievance presented.
- (e) Employees who intentionally obstruct the grievance process shall be subject to disciplinary action.

**.0302 ACCESSIBILITY**

- (a) Communication of the Procedure:
  - (1) A standard written notification of the ARP shall be given to each offender as a part of orientation at the Diagnostic Center and shall be included in free educational materials on tablets. This notification shall instruct the offender as to

*July 1, 2023**Administrative Remedy Procedures*

---

how and where to obtain a grievance form (Form DC-410) and how and where to submit completed grievance forms.

- (2) The notification shall also be available at each prison facility. In addition, as a part of orientation at the Diagnostic Center, each offender shall have an oral explanation of the procedure and shall have the opportunity to ask questions regarding this procedure.
- (b) Any offender who is incapable of understanding this procedure or completing the grievance form in English language may request assistance.
- (c) Only PREA-related grievances regarding allegations of sexual abuse may be submitted by third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, on an offender's behalf. Such PREA related grievances from third parties must be submitted to the Warden of the facility where the offender is housed. A facility may require, as a condition of processing the third-party grievance, that the alleged victim consent to have the grievance submitted on their behalf and require their participation in subsequent steps in the grievance process. If the offender declines to have the third-party grievance processed on their behalf, the facility shall document the offender's decision.
- (d) Availability of the Procedure:
  - (1) The ARP shall be readily available to all offenders and staff for their information and review. It shall be available, where possible, on offender tablets. The ARP shall also be posted, where possible, throughout prison facilities or kept current in all libraries or in locations that make the procedure available for the offender to review, such as housing units.
  - (2) The procedure shall be available to all offenders, regardless of disciplinary, classification, or other administrative decisions affecting the offender, either by written copy or electronic tablet dependent on facility SOP or operational and security needs.

### **.0303 REPRISALS**

- (a) No reprisals shall be taken against any offender or staff member for a good faith use of or participation in the grievance procedure. The prohibition against reprisals should not be construed to prohibit discipline of offenders who do not use the system in good faith, in accordance with Section .0306(c)(5) herein.
- (b) False Reporting: Offenders will be held accountable for knowingly making false reports of unfounded incidents of sexual abuse against a staff member or another offender. If it is

---

*Page 2 of 11**G .0300*

*July 1, 2023**Administrative Remedy Procedures*

---

clearly established that a false accusation has been made, the offender may be subject to disciplinary action.

- (c) If an offender believes that a reprisal has occurred, a grievance describing the reprisal action may be submitted through the normal grievance process. The offender may submit written correspondence to the Secretary of Adult Correction.
- (d) If a staff member believes that a reprisal has occurred as a result of the employee's participation in or assistance with the grievance procedure, a written complaint stating the nature of the reprisal taken against the employee may be filed with the chain of command.

#### **.0304 SUBMISSION OF GRIEVANCES**

- (a) Any aggrieved offender in the custody of DAC may submit a paper grievance Form DC-410 at their housing facility. Paper forms may be submitted to custody staff, through facility mail, or in designated drop-box locations.
- (b) Dependent on housing and classification status, offenders may also submit grievances to their housing facility electronically through their offender tablet grievance application, when, and if, such application is made available to the offender population.
- (c) Offenders may submit up to three grievances regarding separate incidents. After an offender has three grievances pending, at any level of review, the offender may only submit a fourth grievance after a pending grievance has completed Step 2 review or has been resolved.
- (d) PREA related allegations shall be treated in accordance with DOP policy F .3400, Offender Sexual Abuse and Sexual Harassment Policy. If a grievance complains about sexual abuse or sexual harassment of an offender(s), immediate notification shall be made to the facility PREA Compliance Manager and a PREA investigation shall be initiated, if not already in the process. DAC's PREA office may review offender grievances to ensure compliance with PREA standards.
- (e) Offenders may submit grievances with related documentation, such as receipts or order forms, if the offender is in possession of said documents. If an offender is not in possession of the document, but is aware that it may exist, the offender can identify the supporting documentation within the text of the grievance. Offenders may also identify witnesses in the text of their grievances.

#### **.0305 SCREENING OFFICER**

---

*Page 3 of 11**G .0300*

*July 1, 2023**Administrative Remedy Procedures*

---

- (a) Wardens will appoint one or more screening officers. Screening officers shall be fair, knowledgeable regarding the grievance procedure, including time frames established therein, and capable of mediation of grievances at the facility level.
- (b) No employee who appears to be involved in a grievance shall participate in any capacity in the resolution process, except as a witness where necessary. In addition, no employee who appears to be involved in an offender sexual abuse or harassment allegation shall accept a grievance which suggests such personal involvement or shall participate in any capacity in the response to the grievance.
- (c) The screening officer will review grievances submitted by offenders and decide whether the grievance meets one of the rejection criteria set forth in Section .0304 and .0306 herein, or whether the grievance shall be accepted for facility response. This screening shall be completed within three days of receipt of the grievance.
- (d) Receipt of grievances, to include collection of drop-box locations or grievances transmitted through facility mail, shall occur every 24 hours. Wardens shall be responsible for ensuring there are sufficient screening officers to cover absences, holidays, and other non-working days.
- (e) Offenders shall receive written or electronic notice of whether the grievance has been accepted for processing or if it has been rejected, including the basis for rejection, within three days after receipt.
- (f) If the screening officer determines that the grievance can be considered under the procedure, the screening officer may forward it to the staff member whom the officer believes can best provide information or relief.

**.0306 REJECTION OF GRIEVANCES**

- (a) No offender grievance alleging sexual abuse or harassment shall be rejected.
- (b) With the exception of offender sexual abuse or harassment grievances, any grievance submitted **shall be** rejected at any level if it:
  - (1) Seeks to challenge matters already decided by a State or Federal court;
  - (2) Challenges a Parole Commission decision;
  - (3) Challenges a disciplinary action; or
  - (4) Challenges matters beyond the control of DAC.

---

*Page 4 of 11**G .0300*

*July 1, 2023**Administrative Remedy Procedures*

---

- (c) With the exception of offender sexual abuse or harassment grievances, a grievance **may be** rejected at any level if:
  - (1) An offender has submitted three grievances regarding separate incidents and none of the three previously submitted grievances have completed Step 2 review or been resolved.
  - (2) There has been a time lapse of more than 90 days between the alleged event and receipt of the grievance.
  - (3) The offender has requested a remedy for another offender, except in case of an allegation of sexual abuse or harassment. This shall not apply to grievances related to policies or conditions made on behalf of a group of offenders, in which the submitting offender is a member.
  - (4) The offender has requested a remedy for more than one unrelated incident. This shall not apply to grievances related to policies or conditions made as a pattern of incidents which are related in type.
  - (5) The offender's grievance directs toward any person language that is generally considered profane, vulgar, abusive, contemptuous, or threatening. Offenders who violate this rule may be subject to disciplinary action. The grievance may be resubmitted for processing after objectionable language has been eliminated.
- (d) All rejected grievances shall be reviewed and electronically retained by the Warden/designee to ensure compliance with appropriate rejection bases. The screening officer shall be responsible for ensuring that such review takes place at least monthly and that the electronic grievance records are accurate.
  - (1) The Warden may determine that the grievance should have been accepted, and not rejected, the offender shall be notified in writing and provided the opportunity to resubmit the grievance on a new DC-410 in accordance with Section .0304.
  - (2) If the offender declines this opportunity to resubmit the rejected grievance, the screening officer shall obtain a statement or refusal from the offender. The screening officer shall note the offender's decision in the comments related to the electronically retained grievance.

**.0307 TIME LIMITS**

- (a) From receipt of grievance to completion of step 3 review final disposition, all grievances shall be processed within 90 calendar days. The 90-day period commences the day after the grievance has been received.

---

*Page 5 of 11**G .0300*

*July 1, 2023**Administrative Remedy Procedures*

---

- (b) Time frames herein may be extended for up to 70 days if the normal time period for response is insufficient to issue an appropriate response.
- (c) If, at any step of the procedure, a response is not made within the prescribed time limits and there has been no extension of time to issue an appropriate response, the grievance may be forwarded to the next step for review.
- (d) At each step of grievance review (see Section .0309), the time limits are as follows:
  - Screening Response - 3 days after Receipt of Grievance
  - Step 1 Response - 15 days after Screening Response
  - Step 2 Response - 20 days after Appeal of Step 1 Response
  - Step 3 Response - 30 days after Appeal of Step 2 Response
- (e) Nothing in this section shall waive or in any way restrict the right or ability of DAC to assert a statute of limitations defense in a lawsuit brought by an offender.
- (f) Appeals must be requested within 24 hours of receipt of the current step response or the right to appeal shall be waived. The person to whom the appeal is directed has the discretion to accept a late appeal in the event of extenuating circumstances.
- (g) Wardens are responsible to ensure their staff are compliant with the grievance response time frames set forth herein. The Warden shall ensure that screening officers, or other staff, are maintaining monthly reports on past due grievance responses and taking corrective action regarding past due grievances.
- (h) An offender's current housing facility staff shall be responsible for issuing facility-based responses to offenders in writing, including but not limited to screening response, Step 1 response, and/or Step 2 response, where electronic delivery of the response is not feasible. The written responses shall be printed in duplicate. One copy may be retained by the offender and the second copy shall be retained by the facility. Step 3 responses shall be issued by the Inmate Grievance Resolution Board (IGRB).

**.0308 EMERGENCY GRIEVANCES**

- (a) Emergency grievances must be labeled as such and are grievances regarding matters which pose imminent substantial risk of personal injury or serious and irreparable harm to an offender.
- (b) Emergency grievances shall be submitted at an offender's housing facility and forwarded immediately, without substantive review, to the level at which corrective action can be taken by the facility screening officer. Review at the correction action level shall include

---

*Page 6 of 11**G .0300*

*July 1, 2023**Administrative Remedy Procedures*

---

a determination as to whether the grievance is in fact of an emergency nature. Review at the corrective action level shall conclude with a Step 2 response, including any action taken in response to the grievance, within five days.

- (c) Absent a substantiated determination that the grievance is of an emergency nature set forth above, all other matters shall not constitute the basis for use of an emergency grievance. Grievances determined not to be of an emergency nature will be routed through the normal grievance process for response.

**.0309 GRIEVANCE REVIEW PROCEDURE**

(a) Step 1 Review:

- (1) After acceptance of a grievance, the screening officer shall forward the grievance to the staff member who can best provide Step 1 investigation and response. No employee who appears to be involved in an offender sexual abuse or harassment allegation shall participate in any capacity in the response.
- (2) The staff responsible for investigation and response to the offender grievance shall provide this formal Step 1 response within 15 days following the screening response.
- (3) For offender sexual abuse or harassment grievances, the following response shall be provided: Your grievance has been identified as an allegation of offender sexual abuse or harassment. Your grievance has been forwarded to the Warden for appropriate action according to the Prison Rape Elimination Act of 2003 and DOP policy F .3400, Offender Sexual Abuse and Sexual Harassment Policy.
- (4) For grievances submitted related to “offender claims regarding alleged disability,” “ADA,” and/or “accommodation,” the response process should indicate in writing that the offender was given a Form DC-746, Offender Request for Accommodation. This includes any grievance that may be rejected because the offender has requested a remedy for more than one event.
- (5) The staff member will conduct an investigation into the offender’s allegations or concerns and prepare a Step 1 response. Staff shall attach any documentation or statements used in the investigation to the grievance electronic record.
- (6) The response only will be provided to the offender either in paper copy or electronically, depending upon the offender’s ability to access a tablet and dependent on the offender’s housing or classification status.

*July 1, 2023**Administrative Remedy Procedures*

---

- (7) Staff who prepared and signed Step 1 response shall afford the offender an opportunity to have the Step 1 explained in an attempt to resolve the grievance.
  - (8) The offender shall sign the Step 1 response within 24 hours after delivery of the response and designate whether the offender wishes to appeal the response or accept the response.
  - (9) If, at the conclusion of 15 days after the screening response, absent an extension of time, staff are unable to respond to the offender, the grievance and any investigation materials related thereto shall be forwarded to Step 2. The offender shall be provided notice of the time frame violation and forwarding to Step 2.
  - (10) If at any step of the procedure, the offender refuses or is otherwise unavailable to document the Step response with either "appeal" or "accept", staff shall document the refusal or unavailability automatically forward the grievance to the next step in the ARP.
- (b) Step 2 Review:
- (1) If the offender elects to appeal the Step 1 response to the Warden, the offender should select "appeal" on the Step 1 response within 24 hours of notification of the Step 1 decision. The Step 1 responder shall forward the appeal to the Warden/designee upon notification and explanation of the decision reached at Step 1.
  - (2) Lack of response from the offender shall be deemed acceptance of the Step 1 response after 24 hours. Facilities shall not accept late appeal notices absent exigent circumstances. If the offender is unavailable to review the Step 1 response, the facility shall automatically forward the Step 1 response to Step 2.
  - (3) The Warden/designee shall investigate the grievance and review records gathered at Step 1 and complete the investigation within 20 days after the appeal to Step 2.
- NOTE: All offender sexual abuse or harassment related grievances must be investigated by a specially trained PREA investigator at Step 2.
- (4) After completing the investigation and ensuring the record is adequately documented for review, the Warden/designee shall complete a Step 2 response to the offender's grievance. The Warden should address their review of the Step 1 response and any additional measures taken to address the offender's grievance. Staff shall attach any documentation or statements used in the investigation to the grievance electronic record.



*July 1, 2023**Administrative Remedy Procedures*

---

- (5) The response only will be provided to the offender either in paper copy or electronically, depending upon the offender's ability to access a tablet and dependent on the offender's housing or classification status.
  - (6) The Warden/designee who prepared and signed the Step 2 response shall afford the offender an opportunity to have the Step 2 response explained in an attempt to resolve the grievance.
- (c) Step 3 Review:
- (1) If the offender is not satisfied with the Step 2 decision, the offender may appeal to the IGRB as designee for the Secretary of Adult Correction. If the offender elects to appeal the Step 2 response to the IGRB, the offender should select "appeal" on the Step 2 response indicating the offender is not satisfied with the Step 2 decision. The Step 2 responder shall then forward the appeal to the IGRB.
  - (2) Lack of response from or refusal to sign by the offender shall be deemed an acceptance of the Step 2 response after 24 hours. Facilities shall not accept late appeal notices absent exigent circumstances. If the offender is unavailable to review the Step 2 response, the facility shall automatically forward the Step 2 response to Step 3.
  - (3) The Executive Director of the IGRB or designated IGRB Grievance Examiner (IGE) shall review all grievances that are assigned to the section.
  - (4) In reviewing the grievance, the IGE shall conduct an independent investigation of the grievance record and any matters related thereto. The IGE may rely on any investigations already completed. The IGE shall have access to offenders and staff at facilities and shall review records relevant to the grievance.
  - (5) Following their investigation, the IGE shall determine whether the grievance has been satisfactorily resolved by the facility. If the grievance has been satisfactorily resolved by the facility, the IGE will dismiss the grievance as resolved and state the reasoning that the facility's resolution is satisfactory.
  - (6) If the facility has not satisfactorily resolved the grievance, the IGE may resolve the grievance through mediation and communication with all interested parties.
  - (7) The IGE may also determine if the grievance should be dismissed for lacking merit, lacking supporting evidence, or exceeding the scope of the ARP. The IGE shall forward their decision to the offender within 30 days from the date of the offender's appeal from Step 2.

---

*Page 9 of 11**G .0300*

*July 1, 2023**Administrative Remedy Procedures*

---

- (8) The decision of the IGE shall be binding, unless the Secretary of Adult Correction finds that such relief is not appropriate, gives a written explanation for this finding, and makes an alternative order of relief or denies the grievance.
- (9) The decision by the IGE or a modification by the Secretary of Adult Correction shall constitute the final step of the ARP.

**.0310 TRANSFERS DURING GRIEVANCE PROCESS**

- (a) If an offender who has submitted a grievance is transferred to another DOP facility while the offender's grievance is being considered at either Step 1 or Step 2, the Warden/designee at the sending facility will assure that the current pending step review is completed and will then forward the grievance to the Warden/designee at the receiving facility for further processing.
- (b) It is ultimately the responsibility of the sending facility, or the facility named in the grievance to collect information, evidence, or documents related to the allegations listed in the grievance. However, it shall be the responsibility of the housing or receiving facility to ensure that the offender receives a timely response and for entry of any appeal information from said response. Wardens must ensure that staff are aware of their responsibilities and maintain accurate contact information to coordinate responses in transfer situations.
- (c) If an offender who has submitted a grievance is no longer in the custody of DOP or is otherwise unavailable, the reviewing authority shall complete review at the current step. Processing shall then be considered complete and the Form DC-410 will be distributed appropriately.
- (d) Grievances not fully processed due to the unavailability of the offender when the offender remains in the custody of DOP under a current sentence, the grievance shall be forwarded through the appeal process such as listed in Section .0309 for unavailability to sign appeal form. The unavailability shall be documented by staff signature.
- (e) If an offender who has submitted a grievance related to sexual abuse or harassment is no longer at the facility or in custody, the investigation into the allegations shall continue as per policy.

**.0311 RECORD MAINTENANCE AND CONFIDENTIALITY**

- (a) Records regarding submission and disposition of grievances shall be stored in a manner consistent with North Carolina State Retention Schedule at RC No. 1111.3, which applies specifically to offender grievances. If the grievance is initiated in paper format, the paper

---

*Page 10 of 11**G .0300*

*July 1, 2023**Administrative Remedy Procedures*

---

documents shall be retained until the completion of the grievance appeals process, plus three years.

- (b) The retention schedule permits that documents be stored electronically or in paper copy. Electronic records are only acceptable to be maintained during the grievance appeals process if the grievance was initiated by electronic means and the offender is capable of receiving grievance appeal responses in electronic format. Otherwise, paper records shall be maintained until the completion of the grievance appeals process plus three years.
- (c) Procedure Review. The Board shall evaluate the functionality of the ARP and review summaries of offender grievances at least quarterly.
- (d) Any comments from staff, offenders, or members of the public regarding the perceptions of the effectiveness and credibility of the ARP shall be presented to the Board at their quarterly meetings. All evaluations of the ARP shall be reviewed by the Secretary of Adult Correction.

G .0300\_07\_01\_23