

 <p>ARIZONA DEPARTMENT OF CORRECTIONS</p> <p>DEPARTMENT ORDER MANUAL</p>	<p>CHAPTER: 800 INMATE MANAGEMENT</p>	<p>OPR: DIR OPS</p>
	<p>DEPARTMENT ORDER: 802 <i>INMATE GRIEVANCE PROCEDURE</i></p>	<p>SUPERSEDES: DO 802 (12/19/12)</p>
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PURPOSE

The Department provides inmates with access to an Inmate Grievance Procedure to provide opportunity for informal resolution and a formal review of an issue impacting conditions of confinement or institutional life which personally affect the inmate grievant. This Department Order provides timely, administrative remedies to inmate complaints which might otherwise unnecessarily burden the courts.

RESPONSIBILITY

All Department staff are responsible for promoting meaningful dialogue and timely written communication with inmates to resolve inmate complaints and disputes at the lowest possible level in the organization and at the earliest possible opportunity.

The Division Director for Offender Operations is responsible for the overall operation of the Inmate Grievance Procedure. Under the direction of the General Counsel, the Central Office Appeals Unit Administrator and Appeals Officers are responsible for monitoring the effectiveness of the procedure and ensuring all appeals are presented to the Director for review. Wardens are responsible for ensuring they serve as the first level of appeal in the grievance process, and Department staff follow all procedures outlined in this Department Order.

PROCEDURES

802.01 GENERAL INFORMATION

- 1.1 The Inmate Grievance Procedure is designed to address inmate complaints related to any aspect of institutional life or condition of confinement which directly and personally affects the inmate grievant including Department Orders, Director's Instructions, Post Orders, Technical Manuals, and written instructions, procedures and the actions of staff.
- 1.2 The following are not grievable under the Inmate Grievance Procedure:
 - 1.2.1 Actions of the Governor or State Legislature.
 - 1.2.2 Decisions of the Board of Executive Clemency.
 - 1.2.3 Judicial proceedings or decisions of the Courts.
- 1.3 The Inmate Grievance Procedure does not serve as a duplicate appeal process or substitute appeal process for the following, which have independent appeal processes:
 - 1.3.1 Disciplinary Hearing Process outlined in Department Order #803, Inmate Discipline Procedure.
 - 1.3.2 Publication Screening and Review outlined in Department Order #914, Inmate Mail.
 - 1.3.3 Protective Segregation outlined in Department Order #805, Protective Custody.
 - 1.3.4 Security Threat Group Validation outlined in Department Order #806, Security Threat Groups (STGs).
 - 1.3.5 Classification action outlined in Department Order #801, Inmate Classification.
- 1.4 Inmates who attempt to file grievances and appeals for actions outlined in 1.3 of this section will be instructed to follow the appeal process outlined in the specific Department Order or written instruction. Appeals to the Central Office Appeals Unit on these actions may be considered only if the primary issue is outside the scope of the established appeals process.

- 1.5 Pursuant to the Prison Litigation Reform Act of 1996 (PLRA), inmates shall completely exhaust the Department's internal grievance and administrative processes prior to filing any complaint with any State Board or Federal Court.
- 1.6 Inmates may utilize the Inmate Grievance Procedure regardless of their disciplinary status, housing location or classification. Appropriate provisions shall be made to ensure inmates who are not fluent in English, persons with disabilities, inmates with low literacy levels, the elderly and the mentally ill have access to the Inmate Grievance Procedure.
- 1.7 Wardens shall ensure there are no barriers for inmate access to Inmate Grievance forms and inmates have the ability to file grievances and appeals in a timely and confidential manner.
- 1.8 Inmates are not required to use the formal Inmate Grievance Procedure to submit a verbal or written emergency complaint.
 - 1.8.1 An emergency is a condition which, if processed through the normal grievance time frames, would subject the inmate to substantial risk of medical harm, personal injury or cause other serious and irreparable harm.
 - 1.8.2 Any emergency complaint received by staff shall be immediately evaluated through the chain of command to determine whether it is an emergency as defined in 1.8.1 of this section and requires immediate response outside of the Inmate Grievance Procedure time frames.
- 1.9 Inmates may file grievances and appeals directly to the Warden when the content of the grievance is of a nature which would pose a threat to the safety of the inmate, staff, or other inmates if the grievance were filed through established procedures.
- 1.10 Unless notified of an extension of time frames, expiration of any time limit for a response at any stage in the process shall entitle the inmate grievant to move to the next step in the process. Extensions at any step in the grievance process shall not exceed 15 workdays, with the exception of section 802.09 of this Department Order.
 - 1.10.1 If an inmate does not receive a response within the time period specified, his/her time to proceed to the next stage of the grievance process is the same as if he/she had received a response. The time to proceed to the next stage of the grievance process begins to run the day after a response was due back to the inmate.
- 1.11 The maximum length of time for completion of the grievance process is 120 calendar days from initiation of the Formal Grievance process to final disposition.

802.02 INFORMAL COMPLAINT RESOLUTION

- 1.1 Inmates shall attempt to resolve their complaints through informal means including, but not limited to, discussion with staff in the area most responsible for the complaint or through the submission of an Inmate Informal Complaint Resolution, Form 802-11.
- 1.2 In the event an inmate is unable to resolve their complaint through informal means, he/she may submit an Informal Complaint on an Inmate Informal Complaint Resolution form to the Correctional Officer (CO) III in their respective unit. The Informal Complaint must be submitted within ten workdays from the date of the action which caused the complaint. The inmate shall attach copies of all documentation to support his/her complaint.
- 1.3 The CO III shall:
 - 1.3.1 Investigate and attempt to resolve the complaint informally.

- 1.3.2 Provide a response to the inmate within 15 workdays using the Inmate Informal Complaint Response, Form 802-12.
- 1.3.3 For Medical Informal Complaint Resolutions, contact the appropriate medical staff to attempt to resolve the complaint and to respond to the inmate's Informal Complaint.
- 1.4 The inmate may file a Formal Grievance if he/she is dissatisfied with the Inmate Informal Complaint Response from the CO III. In the event the CO III has not attempted to resolve the problem for the inmate, the grievance shall be returned to the CO III for further action.

802.03 FORMAL GRIEVANCE PROCESS (NON-MEDICAL)

- 1.1 An inmate may file a Formal Grievance should he/she be unable to resolve their complaint informally. The inmate has five workdays from receipt of the response from the CO III to submit a Formal Grievance to the unit CO IV Grievance Coordinator using the Inmate Grievance, Form 802-1 and/or the Inmate Grievance-GF Supplement, Form 802-7.
- 1.2 The inmate shall place a single complaint with related issues on a single Inmate Grievance form. If the inmate includes multiple unrelated issues on a single form or submits a duplicate complaint, the submission of the grievance shall be rejected and returned to the inmate as unprocessed.
- 1.3 The inmate shall submit the Inmate Grievance form to the unit CO IV Grievance Coordinator. The unit CO IV Grievance Coordinator shall log and assign a number to each Inmate Grievance form using the Unit Coordinator Grievance Log, Form 802-9.
- 1.4 The unit CO IV Grievance Coordinator may request an additional investigation be conducted and may assign any unit staff member to the investigation to aid in the resolution of the grievance. The inmate shall be notified in writing of any extensions.
- 1.5 Within 15 workdays following receipt of the Formal Grievance, the Deputy Warden shall issue a written response to the inmate.
 - 1.5.1 The written response to the inmate shall include:
 - 1.5.1.1 A summarization of the inmate's complaint.
 - 1.5.1.2 A description of what action was taken to investigate the complaint.
 - 1.5.1.3 A summary of the findings.
 - 1.5.1.4 The decision and supporting rationale in reaching the decision.
 - 1.5.2 The decision from the unit level shall either be "Resolved" or "Not Resolved."
 - 1.5.3 Should the response indicate the grievance is "Not Resolved" due to a Department written instruction, the specific Department Order, Director's Instruction, or Post Order or other written instruction or directive shall be noted in the response.
 - 1.5.4 The Deputy Warden shall sign the written response to the inmate. Any attachments shall remain with the original grievance form.

802.04 FIRST LEVEL APPEAL TO THE WARDEN (NON-MEDICAL)

- 1.1 Within five workdays of receiving the Formal Grievance response from the Deputy Warden, the inmate may elect to appeal the decision by submitting an Inmate Grievance Appeal, Form 802-3 and/or the Inmate Grievance-GF Supplement form to the Warden.

- 1.2 The Warden shall review the inmate's Formal Grievance and Informal Complaint Resolution, the investigation and the response signed by the Deputy Warden. The Warden may return the inmate's Formal Grievance to the Deputy Warden or the unit CO IV Grievance Coordinator for an additional investigation.
- 1.3 Within 20 workdays, the Warden or designee shall issue a written response to the inmate which either affirms or reverses the decision of the Deputy Warden. Should the Warden reverse the decision of the Deputy Warden, the Warden shall provide the inmate with written notification of what corrective action is being taken.
- 1.4 The Warden's office shall ensure appropriate remedies for valid grievances are provided, which may include, but not limited to, changes in unit and institution procedures, recommendations for changes to Department Orders or Director's Instructions and corrective action taken on the inmate specific issue, such as correction to the inmate's account, location of lost property, etc.
- 1.5 Each institution has the authority to adjust grievance claims for inmate property loss which have an adjusted value up to and including \$450 per occurrence. The inmate must initiate the claim by filing an Inmate Grievance form. Resolution shall be in accordance with the established Risk Management Procedures.
- 1.6 Medical Grievances may not be appealed to the Warden.

802.05 APPEALS TO THE DIRECTOR (NON-MEDICAL)

- 1.1 Within five workdays from the date the inmate received the decision of the Warden the inmate may elect to appeal the decision of the Warden to the Director. Inmates may not file an appeal to the Director until the Inmate Grievance Procedure within their assigned unit and institution has been exhausted.
- 1.2 The inmate shall submit the Inmate Grievance Appeal form to the unit CO IV Grievance Coordinator who shall log, process and forward all documents to the Central Office Appeals Officer within five workdays of receiving the appeal from the inmate.
- 1.3 The Central Office Appeals Officer may return any Grievance Appeals to the unit CO IV Grievance Coordinator for further investigation or which does not meet the requirements of this Department Order.
- 1.4 Within 30 calendar days of receiving the Inmate Grievance Appeal, the Central Office Appeals Officer shall prepare a response and submit it to the Director for signature.
- 1.5 The Director may delegate signature authority for any and all Grievance Appeal responses.
- 1.6 The decision of the Director is final and constitutes exhaustion of all remedies within the Department.

802.06 FORMAL GRIEVANCE PROCESS (MEDICAL)

- 1.1 An inmate may file a Formal Grievance should he/she be unable to resolve their complaint informally. The inmate has five workdays from receipt of the response from the CO III/IV or responsible medical staff to submit a Formal Grievance to the unit CO IV Grievance Coordinator using the Inmate Grievance form. Upon receipt of any Medical Grievance, the unit CO IV Grievance Coordinator shall immediately forward the Formal Grievance form to the Contract Facility Health Administrator. Within 15 workdays of receipt, the Contract Facility Health Administrator shall:

- 1.1.1 Investigate the complaint.
- 1.1.2 Prepare a written response to the inmate's Formal Grievance. The written response to the inmate shall include:
 - 1.1.2.1 A summarization of the inmate's complaint.
 - 1.1.2.2 A description of what action was taken to investigate the complaint to include the date and content if a personal meeting with the inmate was conducted.
 - 1.1.2.3 A summary of findings.
 - 1.1.2.4 The decision and supporting rationale in reaching the decision.
 - 1.1.2.4.1 The decision from the unit level shall either be "Resolved" or "Not Resolved."
- 1.1.3 Maintain a copy of the inmate's Formal Grievance and return the completed grievance in a sealed envelope to the unit COIV Grievance Coordinator clearly marked with the inmate's name, Arizona Department of Corrections (ADC) number, housing unit location, and the Grievance number.
 - 1.1.3.1 The unit CO IV Grievance Coordinator shall utilize the Grievance number on the envelope to close out their tracking log and forward the completed Formal Grievance to the inmate in the sealed envelope.

802.07 APPEALS TO THE DIRECTOR (MEDICAL)

- 1.1 Within five workdays of receiving the Formal Grievance response from the Contract Facility Health Administrator, the inmate may elect to appeal the decision by submitting an Inmate Grievance Appeal form to the Director. The unit CO IV Grievance Coordinator shall immediately log, process and forward the original Medical Grievance Appeal with supporting documentation to the Health Services Contract Monitoring Bureau, Grievance Appeals Investigator for processing and investigation.
- 1.2 The Grievance Appeals Investigator for Health Services Contract Monitoring Bureau shall:
 - 1.2.1 Review all Medical Grievance Appeals in consultation with the Assistant Director for Health Services Contract Monitoring Bureau and contracted Health Services staff, as necessary.
 - 1.2.2 Prepare a response and submit it to the Director for signature.
 - 1.2.3 Maintain a copy of the completed Inmate Grievance Appeal and return the completed Inmate Grievance Appeal in a sealed envelope to the unit CO IV Grievance Coordinator clearly marked with the inmate's name, ADC number, housing unit location, and Inmate Grievance Appeal number.
 - 1.2.3.1 Email copies to the Contract Facility Health Administrator and the ADC Contract Compliance Monitor.
 - 1.2.4 The unit CO IV Grievance Coordinator shall utilize the Inmate Grievance Appeal number on the envelope to close out their tracking log and forward the completed Inmate Grievance Appeal to the inmate in the sealed envelope.

- 1.3 Rationale used to reach decisions pertaining to Inmate Grievance Appeals shall be included in the response sent to the inmate, with a copy to the Contract Facility Health Administrator and the ADC Contract Compliance Monitor, and shall specify whether the Grievance Appeal is:
 - 1.3.1 Granted.
 - 1.3.2 Denied.
- 1.4 The Director may delegate signature authority for any and all Grievance Appeal responses.
- 1.5 The decision of the Director is final and constitutes exhaustion of all remedies within the Department.

802.08 INTERSTATE COMPACT AND CONTRACT BED GRIEVANCES

- 1.1 Inmates housed out-of-state through Interstate Compact Agreements or assigned to a Contract Bed facilities in-state or out-of-state shall be provided an opportunity to file Inmate Grievances and Appeals.
- 1.2 Inmate shall first attempt to resolve issues using the Informal and Formal Grievance Procedures made available to them at the institution and/or State in which they are housed. Complaints shall be addressed to the facility or jurisdiction where the inmate is being housed. Private prison Wardens shall notify the Contract Beds Bureau Monitor of all Formal Grievances regarding issues specifically related to an action by the private prison, and how it was resolved. Documentation shall be maintained as part of the Inmate Grievance record.
- 1.3 Interstate Compact Inmates – For inmates transferred through Interstate Compact, the Interstate Compact Supervisor shall act in the capacity of the Deputy Warden and shall complete all steps outlined in section 802.03 of this Department Order. The Central Office Security Operations Administrator or designee shall act in the capacity of the Warden for the first level of the Inmate Grievance Appeals as outlined in section 802.04 of this Department Order.
- 1.4 Inmates assigned to private prisons – For inmates housed in private prisons, whether in-state or out-of- state, the private prison Warden shall ensure the contracted facility has a meaningful grievance procedure which affords inmates the opportunity to resolve issues at the local level.
 - 1.4.1 The private prison Program Supervisor shall act in the capacity of the CO IV Grievance Coordinator as outlined in section 802.03 of this Department Order.
 - 1.4.2 The private prison Warden shall act in the capacity of the Deputy Warden as outlined in section 802.03 of this Department Order. The private prison Warden, in consultation with the Contract Beds Bureau Deputy Warden Monitor, shall provide written Formal Grievance response to the inmate.
 - 1.4.3 The Contract Beds Bureau Support Administrator or designee shall act in the capacity of Warden for first level Inmate Grievance Appeals as outlined in section 802.05 of this Department Order.
 - 1.4.4 The Contracted Facility Health Administrator shall be responsible to respond to inmate health care grievances.
- 1.5 Consideration shall be given to inmates being housed out-of-state; the time frames for filing Inmate Grievances and Appeals may be waived accordingly.

802.09 **SEXUAL OFFENSE GRIEVANCE** – Staff receiving an Informal Complaint or Formal Grievance at any level that describes activity which may be in violation of the Prison Rape Elimination Act (PREA) Of 2003, 24 U.S.C.A. 15601 through 15609 shall immediately initiate Department Order #125, Sexual Offense Reporting and notify the shift commander who shall notify the unit Deputy Warden or institution Warden.

1.1 The exhaustion of administrative remedies consist of the following (an agency shall be exempt from this standard if it does not have administrative procedures to address Inmate Grievances regarding sexual abuse):

1.1.1 The Department shall not impose a time limit when an inmate may submit a grievance regarding an allegation of sexual abuse.

1.1.2 The Department may apply otherwise applicable time limits to any portion of a grievance which does not allege an incident of sexual abuse.

1.1.3 The Department shall not require an inmate to use any informal grievance process or to otherwise attempt to resolve with staff an alleged incident of sexual abuse.

1.1.4 Nothing in this section of the Department Order shall restrict the ability of the Department to defend against an inmate’s lawsuit on the ground that the applicable statute of limitation has expired.

1.1.5 The Complex Grievance Coordinator shall ensure an inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint; and such grievance is not referred to a staff member who is the subject of the complaint.

1.2 Final Decisions/Extensions

1.2.1 The Warden or designee shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 workdays of the initial filing of the grievance. Computation of the 90 workday time period shall not include time consumed by inmates in preparing any administrative appeal.

1.2.2 The Complex Grievance Coordinator may claim an extension of time to respond, of up to 70 workdays, if the normal time period of 90 workdays for response is insufficient to make an appropriate decision. The Department shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.

1.2.3 At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level.

1.3 Third Parties

1.3.1 Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.

- 1.3.2 If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.
- 1.3.3 If the inmate declines to have the request processed on his or her behalf, the Department shall document the inmate's decision.

1.4 Emergency Grievance(s)

- 1.4.1 After receiving an emergency grievance or an Informal Complaint alleging an inmate is subject to a substantial risk of imminent sexual abuse, the Complex Grievance Coordinator or staff member receiving the complaint shall immediately forward the grievance (or any portion thereof, which alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and the Warden or designee shall issue a final decision within five calendar days.
- 1.4.2 The Warden or designee shall document the initial response and final decision, the determination whether the inmate is in substantial risk of imminent sexual abuse, and the action taken in response to the emergency grievance. Copies shall be forwarded to both Legal Services and the Department PREA Coordinator.
- 1.4.3 The Department may discipline an inmate for filing a grievance related to alleged sexual abuse only where the Department can demonstrate the inmate filed the grievance with malicious intent.

802.10 REJECTED AND UNPROCESSED GRIEVANCE(S)

- 1.1 The following Informal Complaint(s), Formal Grievance(s), or Appeal(s) shall be rejected and returned to the inmate as unprocessed:
 - 1.1.1 Threatens serious bodily harm to staff, inmates or the general public.
 - 1.1.2 Raises multiple unrelated issue(s) on a single form.
 - 1.1.3 A duplicate Complaint, Grievance or Appeal.
 - 1.1.4 Raises an issue previously addressed through the grievance process.
 - 1.1.5 Filed past the time frame requirement unless there are extenuating circumstances (i.e., inmates not aware of property losses until after returning from court, a hospital or a Criminal Detention Unit).
- 1.2 Prior to returning unprocessed Informal Complaints, Formal Grievances or Appeals, Grievance Coordinators shall annotate on the document the specific reason for the rejection.

802.11 PROTECTION AGAINST REPRISAL

- 1.1 Retaliation or the threat of retaliation for use of the Inmate Grievance Procedure is strictly prohibited. The inmate may pursue any alleged or threatened retaliation through the Inmate Grievance Procedure. Employees found to be in violation of this section shall receive disciplinary action as outlined in Department Order #601, Administrative Investigations and Employee Discipline.
- 1.2 Failure of an inmate to substantiate his/her grievance allegations shall not, by itself, be used as grounds to initiate disciplinary action against the inmate. If it is found the inmate has intentionally falsified information in the Informal Complaint, Formal Grievance or Appeal, the unit CO IV Grievance Coordinator may recommend disciplinary action after consultation with the Central Office Appeals Administrator.

- 1.3 Staff responses to inmate Informal Complaints, Formal Grievances and Appeals shall be professional and shall not include any demeaning or degrading language or inappropriate remarks.
- 1.4 All documents relating to the Inmate Grievance Procedure are confidential and shall not be shared with any other inmate or staff member outside of the investigative and appeal process.

802.12 ORIENTATION AND TRAINING

- 1.1 A written explanation and instructions for the use of the Inmate Grievance Procedure shall be made available to all staff. Both an oral and written explanation of the Inmate Grievance Procedure shall be made available to all new staff at Employee Orientations and shall be included in the Correctional Officer Training Academy (COTA) curriculum.
- 1.2 Inmates shall receive a written and oral explanation of the Inmate Grievance Procedure in reception centers and as part of the orientation process in any subsequent facility.

802.13 REPORTING AND RECORDS REQUIREMENTS

- 1.1 The Warden shall designate staff at their institution and ensure Deputy Wardens designate a staff member at their unit to record and enter information regarding Inmate Grievances into the Monthly Statistical Report, Form 802-10.
- 1.2 The Central Office Appeals Administrator shall collect and review Monthly Statistical Report form data and evaluate the effectiveness of the grievance process.
- 1.3 The Central Office Appeals Administrator shall conduct an annual assessment of the Inmate Grievance Procedure. Comments shall be solicited from staff and inmates and shall be summarized in the assessment report. This report shall be due on or before June 30 of each year and shall reflect information for the preceding fiscal year.
- 1.4 The unit CO IV Grievance Coordinator at each unit and Appeals Officer at Central Office shall maintain all grievance records to include "unprocessed grievances" in a confidential and secure storage area. Inmate Grievances and Appeals are confidential and shall not be included in the Inmate Master File or any institutional file.
- 1.5 Inmate Grievance records shall be maintained for five years following the date of the last appeal response.

DEFINITIONS

GRIEVANCE - A complaint filed by an inmate related to any aspect of institutional life or conditions of confinement which personally affects the inmate grievant.

INFORMAL RESOLUTION - Any attempt to resolve a complaint prior to attempting to resolve the issue through a formal process.

MEDICAL GRIEVANCE - A complaint related to medical issues, including but not limited to medical, dental, or mental health services and related medical staff.

UNPROCESSED - A condition which results from the paper work addressing a particular issue being returned to an inmate without being assigned a case number or being processed in any manner.

WORKDAY – For the purpose of this Department Order, a workday is Monday through Friday, 8:00 AM to 5:00 PM, including any time the employee is absent from work. State observed holidays are not included as workdays.

{Original Signature on File}

Charles L. Ryan
Director

ATTACHMENTS

Attachment A - Standard Grievance Process
Attachment B - Medical Grievance Process (Non-Emergency)

FORMS LIST

802-1, Inmate Grievance
802-2S, Inmate Grievance (Spanish)
802-3, Inmate Grievance Appeal
802-4S, Inmate Grievance Appeal (Spanish)
802-7, Inmate Grievance-GF Supplement
802-9, Unit Coordinator Grievance Log
802-10, Monthly Statistical Report
802-11, Inmate Informal Complaint Resolution
802-12, Inmate Informal Complaint Response

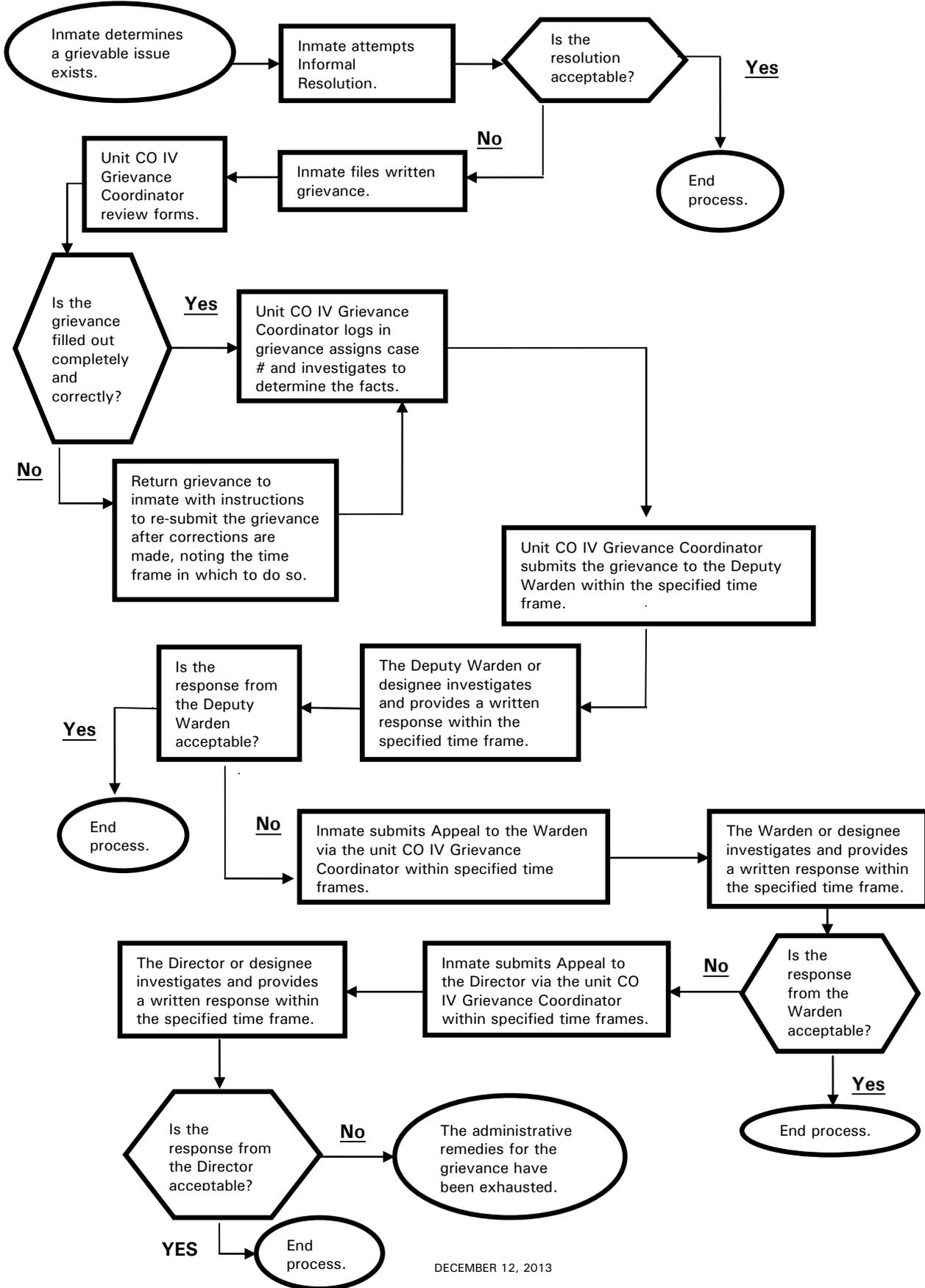
CROSS-REFERENCE INDEX

Department Order #108, Americans with Disabilities Act Compliance
Department Order #809, Earned Incentive Program
Department Order #904, Inmate Religious Activities/Marriage Requests
Department Order #916, Inmate Communications

AUTHORITY

28 CFR Part 40, Order 957-81, Standards for Inmate Grievance Procedures.

Inmate Grievance – Standard Grievance Process



Inmate Grievance – Medical Grievance (Non – Emergency)

