

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5 ☐

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: West Virginia Division of Corrections TITLE NUMBER: 90

CITE AUTHORITY: WV Code 25-1A-2

RULE TYPE: PROCEDURAL XX INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

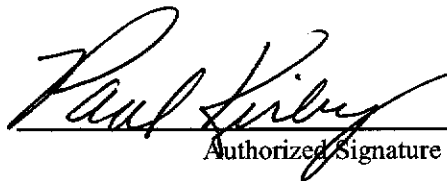
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: Inmate Grievance Procedures

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS _____


Authorized Signature

90CSR9

TITLE 90 PROCEDURAL RULE DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY

DIVISION OF CORRECTIONS

SERIES 9

INMATE GRIEVANCE PROCEDURES

§90-9-1 General

1.1 Scope -- It is the policy of the West Virginia Division of Corrections and the West Virginia Regional Jail and Correctional Facility Authority to establish and maintain a mechanism that ensures the promulgation of uniform procedures concerning the formal review of issues relating to any aspect of confinement (except for disciplinary or classification issues which have separate review processes) for all inmates confined in any State Correctional Facility or Regional Jail.

1.2 Authority --WV Code § 25-1A-2

1.3 Filing date—

1.4 Effective date—

§90-9-2 Definitions

2.1 "Correctional facility" to the fullest extent practicable shall

have the same definition as that set forth in West Virginia Code 25-1A-1(b).

2.2 "Grievance" means a circumstance or action considered to be unjust or unfair and constitute grounds for complaint or resentment, and may also be a basis for which an inmate intends to file any litigation. Grounds for a grievance shall include, but not be limited to, those enumerated in West Virginia Code 25-1A-2(b), being food quality, health care, non-violent or non-sexual conduct of employees or contractors of the Division of Corrections or Regional Jail and Correctional Facility Authority, loss of privileges and other conditions, actions or incidents which personally affect the inmate.

2.3 "Inmate" to the fullest extent practicable shall have the same definition as that set forth in West Virginia Code 25-1A-1(c).

2.4 "Reprisal" shall mean any action or threat of action against anyone for the good faith use of or participation in the grievance procedure.

2.5 Applicability: All units within the Division of Corrections.

§90-9-3 Grievance Procedures for Division of Corrections inmates.

3.1 Initial Grievance

3.1.1 Any inmate who wishes to seek a formal review of an issue that relates to any aspect of his or her confinement, except for an appeal of disciplinary matters as delineated in Policy Directive 325.00 – Discipline of Inmates or classification status as delineated in Policy Directive 401.01 – Correctional Classification Guidelines, shall obtain and complete a G-1 Grievance Form. The inmate must file the initial G-1 Grievance Form within fifteen (15) days of any occurrence that would cause him/her to file a grievance. These forms are non-carbon reproducing (NCR) forms and shall be made available to members of the inmate population at all institutions/-facilities/centers. At a minimum, grievance forms shall be available in the following locations:

- a. Inmate housing units
- b. Law Library

3.1.2 An inmate may grieve only one (1) issue or complaint per form.

3.1.3 The G-1 Grievance Form shall indicate the name and number of the inmate filing the grievance. The Inmate Grievance Procedure is intended to address only those matters that affect the inmate filing the grievance. Failure to properly complete the form will result in its return to the inmate for proper completion.

3.1.4 Upon completion of the G-1 Grievance Form, the inmate must submit the original copy (white sheet) to his or her assigned Unit Manager or appropriate Staff Supervisor (i.e., Post Office Supervisor for a postal grievance issue, Laundry Supervisor for a laundry grievance issue, etc.).

3.1.5 Page 2 of the G-1 Grievance form (yellow sheet) must be submitted with the white sheet for a response and must be submitted with a G-2 Grievance Form in the event the inmate appeals the decision relating to the G-1 Grievance.

3.1.6 The inmate shall maintain Page 3 of the G-1 Grievance Form (pink sheet).

3.1.7 Should no NCR forms be available to the inmate, copies of the G-1 Grievance Form may be utilized. In order to ensure that the inmate retains a copy of his or her grievance for his or her records, when no NCR forms are available, the Unit Manager or Staff Supervisor, upon receipt of the grievance, shall ensure that two (2) copies of the grievance are made for

the inmate at no cost. Both the inmate and the appropriate staff member shall take reasonable steps to allow the inmate to retain a copy of the G-1 Grievance Form and subsequent responses as set forth in this policy.

3.1.8 The Unit Manager or appropriate Staff Supervisor shall attempt to resolve the issue in question.

3.1.9 The G-1 Grievance shall be answered by the Unit Manager or Staff Supervisor within five (5) working days, excluding weekend and holidays. The answer should be clear, concise and complete.

3.1.10 If the Unit Manager or Staff Supervisor fails to answer the G-1 grievance within the time frame noted in 4.2.9 (barring a written agreement between the inmate and the Unit Manager or Staff Supervisor allowing an extension of the G-1 Grievance time frame—no longer than five (5) calendar days), the inmate may file immediately a G-2 Grievance Form utilizing his/her G-1 Grievance Form copy (pink sheet) in order to continue the grievance process.

3.2 Appeals to the Warden or Administrator

3.2.1 Should the initial G-1 Grievance response not resolve the issue, the inmate, within five (5) working days, excluding weekends and holidays, of receiving the

response (G-1 yellow sheet) to his or her G-1 Grievance, may complete a G-2 (NRC) Grievance Form. The inmate must attach a copy of the completed and signed G-1 Grievance Form (yellow sheet) containing the response received from the Unit Manager or Staff Supervisor, and distribute as follows:

- a. G-2 Grievance Form white copy to the Warden or Administrator
- b. G-2 Grievance Form yellow copy to the Warden or Administrator for response
- c. G-2 Grievance Form pink copy maintained by the inmate

3.2.2 Should no NCR Forms be available to the inmate, copies of the G-2 Grievance Form may be utilized. In order to ensure that the inmate retains copies of his or her grievance for his or her records, when no NCR forms are available, the Warden or Administrator or designee, upon receipt of the grievance, shall ensure that two (2) copies of the grievance are made for the inmate at no cost.

3.2.3 The Warden or Administrator shall respond to the G-2 Grievance, in writing, within five (5) working days, excluding weekends and holidays.

3.2.4 At the discretion of the Warden or Administrator, an investigation into the grievance issue may be ordered.

a. The inmate shall be advised by memorandum whenever the Warden or Administrator determines that an investigation is warranted.

b. A final response to the inmate shall be made within thirty (30) working days, excluding weekends and holidays, from the date of receipt of the G-2 Grievance Form from the inmate.

3.3 Appeals to the Commissioner

3.3.1 Should the inmate believe the Warden's or Administrator's response does not resolve his or her grievance, or the Warden or Administrator fails to respond in the timeframe set forth above, the inmate may submit an appeal to the Commissioner or designee of the Division of Corrections within five (5) working days, excluding weekends and holidays, after he or she receives the Warden's or Administrator's response or the time for such has passed.

3.3.2 The inmate may file a request for an appeal to the Commissioner.

3.3.3 A copy of the G-2 Grievance Form (yellow sheet) containing the answer received from the Warden or Administrator and a copy of the G-1 Grievance Form (yellow sheet) containing the answer of the Unit Manager or staff supervisor must accompany the appeal.

3.3.4 The Commissioner or designee may deny any appeal received from an inmate that does not include the appropriate G-1 and G-2 Forms unless the appeal is instituted where no response was made. Failure to include such forms may be considered as a premature action on the part of the inmate and improper utilization of the Grievance Procedure.

3.3.5 After receipt of the inmate's letter of appeal, the Commissioner or designee shall provide a response within ten (10) working days, excluding weekends and holidays.

3.3.6 The Commissioner or designee may order an investigation into the grievance. The inmate shall be notified of the investigation in writing within the timeframe required in 4.4.5 of this rule. A final response shall be rendered to the inmate within a reasonable period of time.

3.4 General Provisions

3.4.1 Nothing in this rule shall be construed in such a manner to entitle an inmate to receive, review, or inspect any portion of an investigation that may be ordered as a result of a grievance.

3.4.2 The decision to order an investigation is within the sole discretion of the Commissioner or the Warden or Administrator of each institution, facility or center.

3.4.3 All G-2 Grievances shall be answered by the Warden or Administrator or designee.

3.4.4 Copies of all inmate grievances, appeals, and responses shall be maintained in the inmate's file, but no grievances shall be made available to the Parole Board except at the request of the inmate.

3.5 Grievance Procedure should be fully concluded within sixty (60) days, excluding weekends and holidays, of filing of the G-1 Grievance Form.

3.5.1 An inmate may not use the Inmate Grievance Procedure to submit a grievance or appeal on behalf of another inmate.

3.5.2 An inmate is not precluded from obtaining assistance in the preparation of a grievance or appeal.

3.6 Compliance with Inmate Grievance Procedures.

3.6.1 This rule supercedes any existing operational procedure now in effect at the institution, facility or center level (providing any grievance filed prior to the effective date of this rule shall be accepted and dealt with in accordance with the institution, facility or center operational procedure in effect at that time).

3.6.2 Any inmate who fails to fully comply with the

provisions set forth in this rule shall not be considered to have taken full advantage of administrative remedies afforded hi or her.

3.6.3 The attached G-1 and G-2 Grievance Forms shall be utilized for all inmate grievances.