

Chapter DOC 310

APPENDIX

DOC 310.01. DOC 310.01 states the purpose of the inmate complaint review system (ICRS) and the commitment of the department to the system.

Subsection (2) lists the objectives of the ICRS. The ICRS benefits inmates, staff, and the correctional process. Through the ICRS, inmates bring issues and policies that need to be reexamined periodically to the attention of the administration. Paragraph (a) allows inmates to raise significant issues. Although the department encourages the use of the ICRS, the system cannot function efficiently when large numbers of insignificant and frivolous complaints are filed.

The ICRS promotes an acceptable and positive method for resolving grievances.

DOC 310.08. This section establishes the scope and limits of ICRS.

The ICRS can be used to seek change in any institution policy or practice not listed in sub. (2). The application of a rule may be challenged in the ICRS.

There are two principal reasons for the exceptions provided in sub. (2). First, procedures for review of some decisions are provided in other sections of the administrative rules. This is true of disciplinary, program review, and authorized leave decisions. Second, the nature of the issue may make other avenues of resolution more appropriate.

However, except for parole, under sub. (3), the procedure followed in these decisions is within the scope of the ICRS, after exhaustion of administrative remedies required under other chapters.

DOC 310.09. DOC 310.09 sets out the procedure by which a complaint can be filed. It is intended to make filing as easy as possible. No one should be excluded from legitimate use of the system because he or she does not have complaint forms or is unable to write.

Subsection (2) allows each inmate to file up to two complaints per week on any issue and provides that subsequent complaints filed within that week will only be accepted if they raise health and personal safety issues or if the examiner accepts them for good cause.

Subsection (4) allows the ICE to direct the inmate to attempt to informally resolve the issue prior to accepting the complaint. This meets the objective of s. DOC 310.01

Subsection (6) underscores the importance of filing a timely complaint. The ICE is given discretion, however, to accept late complaints for good cause. Promptness in filing a complaint is required for a thorough investigation of the facts. This is especially true of complaints involving lost or damaged personal property. Recollections can dim or property can be altered or destroyed, making investigation difficult or impossible.

DOC 310.10. Complaints arising from living and working conditions or the application of a rule may be shared by a number of persons. Accordingly, this section allows a group of inmates to join in a common complaint.

The department encourages the use of the complaint system to deal with frustrations and irritations of institution life, so prohibiting group complaints would be inappropriate. Subsection (7) makes this clear.

DOC 310.11. DOC 310.11 establishes the procedure for processing complaints and sub. (3) authorizes priority handling of complaints dealing with health or personal safety. Experience has

shown some complaints to raise insignificant issues. For example, a complaint alleging that the institution served creamy peanut butter but the inmate preferred chunky peanut butter. These complaints take attention away from significant issues.

Because inmates are transferred within the Wisconsin correctional system, sub. (9) provides a method for dealing with complaints arising around the time of the transfer.

DOC 310.12. This section requires the appropriate reviewing authority's written decision to be rendered within 25 working days after the complaint is acknowledged. If the complaint system is to have any value as a method of resolving conflict, decisions must be rendered quickly. Experience in the ICRS has shown that timeliness is an important factor in the process.

DOC 310.13. DOC 310.13 defines the procedure for appealing an adverse decision to the CCE. This section requires that appeals be filed within 10 calendar days, although the CCE may accept an appeal filed later for good cause.

Appeal to the CCE provides another element deemed essential to a credible complaint system; namely, a review by someone outside the division of adult institutions chain of command. CCE's shall give priority to appeals dealing with health and personal safety.

DOC 310.15 Since the purpose of the complaint system is to air grievances and seek resolutions, decisions resulting in a change in program, policy, or rule interpretation that affect more than a few inmates, must be promptly implemented.

Subsection (2) states that the complainant may notify the decision-maker of failure to implement a decision within 30 working days. The decision-maker is in a position to ensure that a decision is implemented promptly.

DOC 310.16 If the ICRS is to maintain integrity and the confidence of the inmates, complaints entered must be treated confidentially and, with certain limited exceptions, no sanctions can result from the good faith use of the system. The ICRS is an appropriate forum for resolving staff issues. However, because complaints often identify a staff member as the perceived perpetrator of some injustice, the complainant must be protected from retribution or penalty for good faith use of the system.

The nature of some complaints is such that a meaningful investigation cannot be made without revealing the identity of the complainant, but this should be done only when necessary to investigate the complaint, implement the remedy, or in response to litigation. Confidentiality can be waived if it can be shown that the security or orderly administration of the institution, or the security, safety or health of any person is involved.

This is not to say that inmates are free to make threatening or false statements about staff, knowing they are false, especially if those false statements are made public. There have been malicious lies about staff corruption and sexual behavior made in the ICRS. This rule does not prohibit disciplinary action for the bad faith use, or rather abuse, of the ICRS under s. DOC 303.32.

The ICE must use discretion in revealing only enough information about the nature of the complaint as necessary to investigate the complaint, implement the remedy, or in response to litigation.

DOC 310.18 Experience has shown that there are rare situations when it is necessary to suspend these rules. DOC 310.18 permits the secretary to suspend these rules in an emergency. The rule defines an emergency in s. DOC 310.03 (9).