



DEPARTMENT OF CORRECTIONS
Institutions



Title:	Discrimination Complaint and Grievance Response	DOC Policy: 40.2.13
Effective:	10/18/19	Supersedes: N/A
Applicability: All DOC employees, OCE employees, contractors, and volunteers		
Directives Cross-Reference: Discrimination Complaint Review System (AIC) – Div 006 Grievance Review System (AIC) – Div 109		
Attachments: Discrimination Complaint Form Discrimination Complaint Appeal Form Grievance Form Grievance Response Form Grievance Appeal Form		

I. PURPOSE

To establish guidelines to ensure effective and respectful communication between employees, contractors, and volunteers of the Department of Corrections (DOC) or Oregon Corrections Enterprises (OCE) and the adult in custody (AIC) population in the administration of the discrimination complaint review and grievance review systems.

Proper and effective communication between staff and AICs is essential to the safe, secure, and orderly operation of Department of Correction’s facilities and to the successful completion of the AIC’s corrections plans.

II. DEFINITIONS

- A. **Active Complaint:** An active grievance, discrimination complaint, or appeal of either, that is awaiting a response or is within the available timelines for appeal or return for correction.
- B. **Adult in Custody (AIC):** A person incarcerated or detained in a correctional facility who is accused of, convicted of or sentenced for a violation of criminal law or for the violation of the terms and conditions of pretrial release, probation, parole, post-prison supervision or a diversion program.
- C. **Adult in Custody Complaint Review Committee (AICCRC):** A multi-disciplinary team chaired by the Statewide Grievance and Discrimination Complaint Coordinator designated by the Inspector General and made up of AIC grievance coordinators, discrimination complaint coordinators, and department subject matter experts.
- D. **Communication Form:** An official Department of Corrections form commonly referred to as a "kyte or kite." The form is designed for AIC use in communicating with DOC employees,

volunteers, or contractors and allows employees, volunteers, or contractors to respond in writing, when appropriate, to the AIC.

- E. Contractor: Any person under contractual arrangement to provide services to the department; any person employed by private or public sector agencies who is serving under department sanctioned assignment to provide services or support to department programs.
- F. Department of Corrections (DOC) Employee: Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections.
- G. Discrimination Complaint: A written complaint submitted by an AIC pursuant to the Department's Rules on the Discrimination Complaint Review System (OAR 291-006).
- H. Functional Unit Manager: Any person within the Department of Corrections who reports either to the Director, an Assistant Director, or an administrator, and who has responsibility for the delivery of program services or the coordination of program operations. In a correctional facility, the functional unit manager is the superintendent.
- I. Grievance: A written complaint submitted by an AIC pursuant to the rule (OAR 291-109).
- J. Institution Discrimination Complaint Coordinator: An employee who is assigned by the functional unit manager to review and investigate incidents of perceived discrimination. In a DOC facility, the Discrimination Complaint Coordinator may also be the Grievance Coordinator.
- K. Institution Grievance Coordinator: An employee who is assigned by the functional unit manager to review and process AIC grievances. In a DOC facility, the Grievance Coordinator may also be the Discrimination Complaint Coordinator.
- L. Oregon Corrections Enterprises (OCE): A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.
- M. Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises.
- N. Volunteer: A person who, with prior approval from the department, donates time, knowledge, skills, or effort to enhance the mission, activities, and programs of the department.

III. POLICY

A. General Communication:

1. Staff communicate not only with their choice of words (oral or written) but also non-verbally through their manner, tone, and approach (commonly referred to as body language).

2. Staff are responsible for ensuring their choice of words, manner, tone, and approach are appropriate to properly and effectively convey their intended message and information.
3. Staff shall communicate in a professional, civil, and respectful tone and manner to AICs, which fosters respect and confidence. Staff orders directed to AICs should be clear and concise.
4. Staff shall make every effort to respond to an AIC communication form in a timely manner.
5. Staff shall date and legibly print and sign the AIC communication form responses.

B. Complaint Response Guidelines:

1. Staff are encouraged, where appropriate, to meet with the AIC to attempt to resolve the issue prior to responding to grievances, discrimination complaints, or appeals of either.
2. Completed responses shall have proper punctuation and grammar usage, written in first person (directly to the AIC from the author), and address all of the concerns raised in the complaint and only those concerns.
3. Complaint responses shall not respond to an AIC's request for monetary award, staff personnel actions, or an indication that they plan to sue, file a notice of tort, or take further legal action.
4. Responses shall not state the AIC has exhausted their administrative remedies or any verbiage indicating the matter is closed or the administrative review process has ended. Only a final appeal response may indicate when the administrative review process has concluded or as specified in OAR 291-006 and OAR 291-109.
5. Grievance/Discrimination Complaint Coordinators will review responses for appropriateness and responsiveness and may request revisions to a response prior to accepting the response and sending the response to the AIC. Grievance/Discrimination Complaint Coordinators will work with their functional unit manager or designee to develop an internal process for handling these circumstances.
6. Staff will not threaten or attempt to discourage an AIC from utilizing the discrimination complaint review or grievance review systems in accordance with OAR 291-006 and OAR 291-109.

C. Receipt Processing for Complaints:

1. The date an initial grievance, discrimination complaint, or appeal of either is received by the institution grievance/discrimination complaint coordinator shall be clearly noted on all pages of the complaint form.
2. If the complaint is for another institution, it will be date stamped as received on each page and forwarded to the appropriate institution to log and process. The date used for processing will be the original received date at the originating institution.
3. Each complaint will be accepted, denied, or returned for correction(s). The AIC will be issued a receipt memo indicating the status of their complaint, clearly noting any corrections needed or disqualifying factors.
4. When an AIC has been found to have improperly used the grievance or discrimination complaint systems and has been restricted to two active complaints at a time, any complaints received in excess of the outlined restriction will not be processed, excluding emergency, sexual harassment and sexual abuse grievances.

D. Processing of AIC Discrimination Complaints:

1. Initial AIC Discrimination Complaint:
 - a. A discrimination complaint that has been accepted for processing will be investigated by the institution discrimination complaint coordinator, or other assigned staff. The staff named in the discrimination complaint will not be assigned to investigate the allegation.
 - b. Requests from the institution discrimination complaint coordinator or investigating staff, to a staff person, volunteer, or contractor for information pertaining to a discrimination complaint, will be responded to prior to the date indicated on the notice provided to the responder.
 - c. The institution discrimination complaint coordinator will draft a response based on the investigation findings and provide the information to the functional unit manager for review.
 - d. An AIC's initial discrimination complaint will be responded to by the functional unit manager within 70 days from the date the complaint was accepted for processing, unless further investigation is necessary.
 - e. If the discrimination complaint response will not be completed within the timeframes outlined in OAR 291-006, the institution discrimination complaint coordinator will notify the AIC of the status of the discrimination complaint.
 - f. The institution discrimination complaint coordinator will update the electronic complaint database and upload a copy of the completed discrimination complaint packet, including the initial response.

2. AIC Discrimination Complaint Appeal:

- a. Upon receiving an AIC's request for a review of the department's response to their discrimination complaint, the institution discrimination complaint coordinator will process the appeal, in accordance with OAR 291-006.
- b. The institution discrimination complaint coordinator will forward the complete discrimination complaint packet to the Office of the Inspector General for review by the Adult in Custody Complaint Review Committee (AICCRC).
- c. An AIC's review request will be responded to by the Inspector General or designee within 70 days from the date the appeal was accepted, unless further investigation is necessary.
- d. The discrimination complaint appeal response will be sent directly to the AIC from the Office of the Inspector General with a copy provided to the institution discrimination complaint coordinator.
- e. The institution discrimination complaint coordinator will update the electronic complaint database and upload a copy of the completed discrimination complaint packet, including the appeal response.

E. Processing of AIC Grievances:

1. AIC Grievances:

- a. Initial grievance responses will be completed using the department's approved Grievance Response Form.
- b. The response will include the AIC's name, SID number, appropriately formatted grievance number, and the responding staff, volunteer, or contractors name and title in the designated spaces.
- c. The completed response form will be signed by the person writing the response and reviewed and signed by their supervisor. Electronic signatures may be used.
- d. Completed responses will be returned to the institution grievance coordinator prior to the date indicated on the notice provided with the grievance.
- e. The institution grievance coordinator will review the response and date stamp it prior to forwarding it to the AIC.
- f. The institution grievance coordinator will update the electronic complaint database and upload an electronic copy of the current complaint transaction including a copy of the date stamped response.

2. AIC Grievance Appeals:

- a. Initial grievance appeal responses will be completed in letter format, using the approved formatted templates, addressed to the AIC from the functional unit manager or designee.
- b. Final grievance appeal responses will be completed in letter format, using the approved formatted templates, addressed to the AIC from the appropriate Assistant Director or designee.
- c. Completed responses will be returned to the institution grievance coordinator prior to the date indicated on the notice provided with the grievance appeal.
- d. The institution grievance coordinator will review the response and date stamp it prior to forwarding it to the AIC.
- e. The institution grievance coordinator will update the electronic complaint database and upload an electronic copy of the current complaint transaction including a copy of the date stamped response.

F. Addressing Outstanding and Delinquent Responses:

1. Weekly Outstanding and Delinquent Reports:

- a. Grievance/Discrimination Complaint Coordinators will generate the outstanding and delinquent complaint reports from the electronic complaint database for their institution(s) on a weekly basis and forward it to the appropriate institution staff, managers and supervisors.
- b. First reminders for pending responses will be sent to each responder when the complaint response has not been received by the Grievance/Discrimination Complaint Coordinator within 21 days of the date the complaint was assigned to the responder(s). This will be indicated on the outstanding report by a number of -14 or greater.
- c. Second reminders for pending responses will be sent to each responder when the complaint response has not been received by the Grievance/Discrimination Complaint Coordinator within 28 days of the date the complaint was assigned to the responder(s). This will be indicated on the outstanding report by a number of -7 or greater.
- d. Third reminders shall be sent to each responder with a copy forwarded to the responder's immediate supervisor or designee, the manager who provides oversight of the grieved work area, and the functional unit manager, notifying them the response is now past due. This will be indicated on the outstanding report by a number of 0 or greater.

- e. The Grievance/Discrimination Complaint Coordinators shall document in the electronic complaint database each time a reminder is sent.
 - f. Complaint responses that become more than seven days delinquent of the response timeframes outlined in OAR 291-006 and OAR 291-109, shall be sent to the functional unit manager and to the Inspector General's Office for follow up. This will be indicated on the outstanding report by a number of 7 or greater.
2. Inspector General's Office Delinquent Report Processing:
- a. The Inspector General's Office will monitor delinquent grievance and discrimination complaint response reports.
 - b. Functional unit manager's whose functional unit has responses over seven days delinquent will receive a copy of the delinquent report.
 - c. Delinquent reports will be copied to each Grievance/Discrimination Complaint Coordinator. The Grievance/Discrimination Complaint Coordinator will provide a status update to the functional unit manager or designee for each delinquent response.
3. Suspended Responses:
- a. For those complaints where there is a valid reason for a late response (including but not limited to waiting for advice from DOJ, a policy decision needing to be made by DOC, or a staff responder out on leave), the suspend feature in the electronic complaint database will be utilized.
 - b. When suspending a complaint in the electronic complaint database, the Grievance/Discrimination Complaint Coordinator will add a note in the comments section of the electronic complaint database regarding why the complaint is being suspended and an estimated date of response.
 - c. The Grievance/Discrimination Complaint Coordinator shall provide notice to the AIC of the suspended complaint exceeding normal complaint response timelines as outlined in OAR 291-006 and OAR 291-109.
 - d. It is the responsibility of the Grievance/Discrimination Complaint Coordinator to track suspended complaints, follow-up on suspended complaints and document the status of the response in the electronic complaint database.
 - e. Grievance/Discrimination Complaint Coordinators shall track suspended complaints until a response is received or an outcome is reached.

IV. IMPLEMENTATION

This policy will be adopted immediately without further modification.

Certified: signature on file _____
Michelle Mooney, DOC Rules Coordinator

Approved: _signature on file _____
Heidi Steward, Deputy Director