

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE  
SECRETARY OF STATE

CHERYL MYERS  
DEPUTY SECRETARY OF STATE  
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK  
DIRECTOR

800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 291  
DEPARTMENT OF CORRECTIONS

**FILED**

10/24/2024 10:25 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Grievance Review System (AIC)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/16/2024 12:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

CONTACT: Julie Vaughn  
971-701-0139  
julie.a.vaughn@doc.oregon.gov

3723 Fairview Industrial Drive SE #200  
Salem, OR 97302

Filed By:  
Julie Vaughn  
Rules Coordinator

NEED FOR THE RULE(S)

The purpose of these rules is to establish department policy and procedures for adult in custody (AIC) communication with staff and the administration of the department's internal grievance review and appeal system for AICs confined in Department of Corrections facilities. The purpose of the amended rule is to amend Department of Corrections policy to provide that PREA-related reports will be exempted from the department's grievance and discrimination complaint systems, and will be separately investigated outside of those systems. An adult in custody (AIC) may continue to make PREA-related reports through those systems, and any such report will initiate the department's duty to investigate that report, but the report will no longer be considered a grievance or discrimination complaint under the department's grievance and discrimination complaint systems. Accordingly, an AIC will not be subject to any technical or formatting or processing requirements for PREA-related reports. The amended rule is needed to simplify and clarify the process for AICs who are seeking to report a PREA-related issue and may choose to do so by making that report through the grievance or discrimination complaint review systems. Other revisions were made to improve clarity of the rules and consistency within these rules; to align with other department rules; to reorganize these rules; and to remove gendered language.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Department of Corrections anticipates the proposed amendments to its Division 109 rules (OAR 291-109 AIC Grievance Review System) will have a neutral impact on racial equity in the state of Oregon.

These rules permit and encourage adults in custody (AICs) to seek resolution of issues, actions, or incidents by using the department's internal grievance review system.

These revisions simplify rule language, remove duplicate rule language, streamline processes, and add clarity for ease of use. In addition, these revisions include a reorganization of the rules and address general housekeeping items, such as grammar and punctuation corrections. These revisions do not include any operational or policy changes. For this reason, the Department of Corrections anticipates that the proposed revisions to the AIC Grievance Review System Rules (OAR 291-109) will have a neutral impact on racial equity in the State of Oregon

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**FISCAL AND ECONOMIC IMPACT:**

OAR 291-109 rule amendments will allow DOC to implement a streamlined process that is consistent for all types of PREA allegations received through OAR 291-109 and OAR 291-006.

The rule change could impact workload to train Grievance/Discrimination Complaint Coordinators and PREA Teams prior to adoption but there are no anticipated additional costs or staffing fiscal impacts on the department, other state agencies, local governments (the counties), or the general public.

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**COST OF COMPLIANCE:**

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

None.

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**DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

Small businesses were not involved in the development of these rules as they will not be impacted by these rules.

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**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?**

The department has determined that use of an advisory committee would not have provided any substantive assistance in drafting these rule revisions because of the technical nature of the revisions.

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**RULES PROPOSED:**

291-109-0100, 291-109-0110, 291-109-0205, 291-109-0210, 291-109-0215, 291-109-0220, 291-109-0225, 291-109-0230, 291-109-0235, 291-109-0240, 291-109-0245, 291-109-0250

AMEND: 291-109-0100

RULE SUMMARY: Amends rule to align language with other department rules; for consistency within the rules; and to clarify the rules.

**CHANGES TO RULE:**

291-109-0100

Authority, Purpose, and Policy ¶¶

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.¶¶

(2) Purpose: The purpose of these rules is to establish department policy and procedures for adults in custody (AIC) to communication with staff employees, and the administration of the department's internal grievance review and grievance appeal system for AICs confined in individuals in the custody of the Department of Corrections facilities.¶¶

(3) Policy:¶

(a) It is the policy of the Department of Corrections to encourage AICsadults in custody to address their concerns informally with appropriate staffemployees and managers through dialog or in writing by utilizing communication forms. AICsdults in custody having information or concerns regarding the conduct or behavior of staffemployees that may directly threaten the life, health, and safety of staff or AICsemployees or adults in custody are also encouraged to communicate their information and concerns to the department using such other systems as the department may develop, for example, the Inspector General's hotline.¶

(b) Recognizing that due to the complex nature of the correctional setting some issues or disputes between staff and AICsemployees and adults in custody may not be readily resolved at an informal level, it is the policy of the Department of Corrections to permit and encourage AICsadults in custody to seek resolution of issues or disputes with employees, contractors, or volunteers of the Department of Corrections or Oregon Corrections Enterprises using the department's internal AIC grievance review and appeal system established in these rules.¶

(c) Within the inherent limitations of resources and the need for facility security, safety, health, and good order, it is the policy of the Department of Corrections that all AICsadults in custody be treated fairly and equitably, and that staffemployee actions and decisions be consistent with the rules, policies, and procedures of the department.

Statutory/Other Authority: 423.020, 423.030, 423.075, ORS 179.040

Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075

AMEND: 291-109-0110

RULE SUMMARY: Amends rule to align language with other department rules; for consistency within these rules; to clarify the definitions; and to add, update or reorganize.

CHANGES TO RULE:

291-109-0110

Definitions ¶

(1) 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. ¶

(2) Adult in Custody (AIC): ~~A~~For the purposes of these rules, 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. ¶

(3) Adult in Custody Complaint Review Committee (AICCRC): A multi-disciplinary team chaired by the ~~Statewide~~Agency Grievance and Discrimination Complaint Coordinator designated by the Inspector General and made up of institution grievance coordinators, institution discrimination complaint coordinators, and department subject matter experts. ¶

(4) Agency Grievance and Discrimination Complaint Coordinator: An employee designated by the Inspector General to chair the Adult in Custody Complaint Review Committee (AICCRC) and provide statewide program oversight, coordination, and direction to institution grievance and discrimination complaint coordinators and department employees, managers, and administrators relating to the adult in custody grievance and discrimination complaint programs. ¶

(5) Communication: A process by which information is exchanged between individuals, usually through verbal or written message. ¶

(56) Communication Form: An official Department of Corrections form commonly referred to as a "kyte" or "kite." The form is designed for ~~AIC use in use by adults in custody for~~ communicating with ~~DOC~~department employees, volunteers, or contractors and allows employees, volunteers, or contractors to respond in writing to the adult in custody, when appropriate, ~~to the AIC.~~ ¶

(67) 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 any department-sanctioned ~~special~~ assignment to provide services or support to department programs. ¶

(78) Court Name: ~~The AIC name as established and used by the Oregon Department of Corrections for use on the AIC's case file, identification card, medical file, etc., based on the name provided in the first judgment in the custody cycle sentencing an AIC to the Oregon Department of Corrections custody~~For the purposes of these rules, the definition of "court name" is defined in OAR 291-100 Admission, Sentence Computation, and Release. ¶

(89) Department of Corrections (~~DOC~~)Employee (Employee): Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections. ¶

(9) ¶  
(10) Directive: A term generally used to describe a Department of Corrections administrative rule or policy signed by the Director or designee, or other procedural guidelines, orders, or official instruction. ¶

(11) Discrimination Complaint: A written complaint submitted by an ~~AIC pursuant to~~adult in custody in accordance with the D~~department's R~~rules on the Discrimination Complaint Review System (OAR 291-006). ¶

(10) Directive: A term generally used to describe a Department of Corrections administrative rule or policy signed by the Director or designee. ¶

(112) Emergency Grievance: A grievance alleging actual or significant risk of immediate physical harm. ¶

(123) Functional Unit Manager: Any person within the Department of Corrections who reports to either ~~to the~~ Director, Deputy 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. ¶

(134) Grievance: A written complaint submitted by an ~~AIC pursuant to these rules~~adult in custody in accordance with the department's rules on Grievance Review System (OAR 291-109). ¶

(145) Inspector General's Hotline: A toll-free phone number, maintained and paid for by the department, where AICs where adults in custody may report misconduct by other AICsadults in custody, and abuse of lawful authority or criminal activity of department staffemployees in order to protect the life, health, and safety of both staff and AICs. employees and adults in custody. ¶

(156) Institution Grievance ADA Coordinator: The functional unit staff member responsibledepartment employee for communicating directly with the AIC about grievance related matters. ¶

(16) Institution AIC ADA Coordinator: DOC employee(s) at each institution or facility assigned to coordinate

~~efforts to comply~~ designee assigned by the functional unit manager to coordinate compliance with and carry out responsibilities under the Americans with Disabilities Act with regards to AICs, and to respond to AIC ADA grievances.¶

~~(17) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of~~ ting access to department programs, services, and activities for adults in custody with disabilities, and to communicate about ADA matters within their respective functional unit.¶

~~(17) Institution Discrimination Complaint Coordinator: The department employee or designee assigned by the functional unit manager to coordinate discrimination complaint processes and communicate about discrimination complaint related matters within their respective functional unit.~~¶

~~(18) Institution Grievance Coordinator: The Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.~~ employee or designee assigned by the functional unit manager to coordinate grievance processes and communicate about grievance related matters within their respective functional unit.¶

~~(18) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprise: 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.~~¶

~~(19) Sexual Harassment: Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one AIC~~ adult in custody directed toward another: and repeated verbal comments or gestures of a sexual nature to an AIC by a staff member adult in custody by an employee, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.¶

~~(20) Statewide Grievance and Discrimination Complaint Coordinator: An employee designated by the Inspector General to chair the AICCRC and provide statewide program oversight, coordination, and direction to DOC facility grievance/discrimination complaint coordinators and DOC staff, managers, and administrators relating to the AIC grievance and discrimination complaint programs.~~¶

~~(21) Vendor: A person or company contracted to provide services directly for sale to AICs~~ adults in custody through the department; (for example, companies providing telephone services).¶

~~(22) Volunteer: A person who, with prior approval from the department, donates time, knowledge, skills, and effort~~ or effort to the department, Oregon Corrections Enterprises, or other state agency to enhance the mission, activities, and programs of the department.

Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.075

AMEND: 291-109-0205

RULE SUMMARY: Amends rule for consistency within these rules; and to clarify the rules.

CHANGES TO RULE:

291-109-0205

Grievance and Grievance Appeal Timelines

(1) Grievances must be received by the institution grievance coordinator ~~or designee~~ within 14 calendar days from the date of the incident or issue being grieved, unless the ~~AIC~~adult in custody can satisfactorily demonstrate why the grievance could not be timely filed. Untimely grievances will be denied and returned to the ~~AIC~~adult in custody with a statement of the rule.¶

(2) ~~A~~Initial grievance response will be sent to the AICs will be responded to within 35 calendar days from the date the initial grievance was accepted ~~by the institution grievance coordinator~~, unless further review is necessary to fully respond to the ~~AIC's~~adult in custody's initial grievance, in which case the ~~AIC~~adult in custody will be notified that the department will respond within an additional 14 calendar days.¶

(3) Initial grievance appeals must be received by the institution grievance coordinator ~~or designee~~ within 14 calendar days from the date the initial grievance response was sent to the ~~AIC~~adult in custody unless the adult in custody can satisfactorily demonstrate why the initial grievance appeal could not be timely filed. Untimely initial grievance appeals will be denied and returned to the ~~AIC~~adult in custody with a statement of the rule.¶

(4) ~~A response to the initial~~Initial grievance appeals will be ~~sent to the AIC~~responded to within 35 calendar days from the date the initial grievance appeal was accepted, unless further review is necessary to fully respond to the ~~AIC's~~adult in custody's initial grievance appeal, in which case the ~~AIC~~adult in custody will be notified that the department will respond within an additional 14 calendar days.¶

(5) Final grievance appeals must be received by the institution grievance coordinator ~~or designee~~ within 14 calendar days from the date the initial grievance appeal response was sent to the ~~AIC~~adult in custody unless the adult in custody can satisfactorily demonstrate why the final grievance appeal could not be timely filed. Untimely final grievance appeals will be denied and returned to the ~~AIC~~adult in custody with a statement of the rule.¶

(6) ~~A response to the final~~Final grievance appeals will be ~~sent to the AIC~~responded to within 35 calendar days from the date the final grievance appeal was accepted, unless further review is necessary to fully respond to the ~~AIC's~~adult in custody's final grievance appeal, in which case the ~~AIC~~adult in custody will be notified that the department will respond within an additional 14 calendar days.¶

(7) If the deadline for submitting a grievance or grievance appeal falls on a weekend or legal holiday, that grievance or grievance appeal will be deemed timely if the grievance or grievance appeal form is timely dated by the ~~AIC~~adult in custody and the institution grievance coordinator receives the grievance or grievance appeal during the first business day following the weekend or legal holiday in which the deadline passed.¶

(8) Grievances, grievance appeals, or responses may be consolidated by the department.

Statutory/Other Authority: ~~ors~~ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075

Statutes/Other Implemented: ~~ors~~ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075

AMEND: 291-109-0210

RULE SUMMARY: Amends rule to clarify the rules; for consistency throughout these rules; to align with other department rules; and to reorganize.

CHANGES TO RULE:

291-109-0210

Permissible Grievance Issues

- (1) An AIC adult in custody may only request review of one ~~matter~~ issue, action, or incident per grievance. ¶
- (a) If multiple staff/employees or functional units are involved in a single incident or issue, each should be included in a single grievance and one grievance response will be prepared from the most appropriate individual, at the discretion of the institution grievance coordinator. ¶
- (b) For the purposes of a specialty committee, only one grievance shall be submitted for the ~~issue or incident~~. ¶
- ~~(2) An AIC~~ incident or issue. ¶
- ~~(2) An AIC~~ adult in custody may not file more than one accepted grievance or discrimination complaint regarding a single incident or issue, regardless of incident date, unless substantial new information is available about the incident or issue. ¶
- (3) An AIC adult in custody may file a single grievance concerning any incident or issue regarding institutional life that directly and personally affects that AIC adult in custody, including but not limited to: ¶
- (a) Misapplication of departmental policies, rules, or other directives; ¶
- (b) Unprofessional actions of employees, volunteers, or contractors of the Department of Corrections or Oregon Corrections Enterprises; ¶
- (c) Inadequate medical or mental health treatment; ¶
- ~~(d) Sexual abuse or sexual harassment; and~~ ¶
- ~~(ed)~~ Excessive use of force by department employees. ¶
- (4) An AIC ~~cannot grieve~~ adult in custody cannot file a grievance regarding the following: ¶
- (a) Any matter that does not directly and personally affect the AIC adult in custody; ¶
- (b) Any matter in which the AIC adult in custody lacks personal knowledge of the incident or issue; ¶
- (c) Any matter that is outside of the jurisdiction of the department (for example, actions by the Board of Parole and Post-Prison Supervision); ¶
- (d) Any matter that may be reviewed through a separate review process under the ~~D~~ department's rules. Examples include, but are not limited to, the review processes set out in the following ~~D~~ department rules: ¶
- (A) Segregation (Administrative Housing) - (OAR 291-046) ¶
- (B) Alternative Incarceration Programs - (OAR 291-062) ¶
- (C) Classification - (OAR 291-104) ¶
- (D) Cost of Care Reimbursement - (OAR 291-203) ¶
- (E) Discrimination Complaints Review System - (OAR 291-006) ¶
- (F) Informed Consent to Treatment with Psychotropic Medication - (OAR 291-064) ¶
- (G) Mail - (OAR 291-131) ¶
- (H) Prison Term Modification - (OAR 291-097) ¶
- (I) Security Threat Management - (OAR 291-069) ¶
- (J) Trust Accounts - (OAR 291-158) ¶
- (K) Visiting - (OAR 291-127) ¶
- (e) Daily fails as defined in the DOC rule on Performance Recognition and Award System - (OAR 291-077-0033); ¶
- ¶
- (f) Conduct orders, investigations leading to a conduct order, or conduct order sanction(s); ¶
- (g) Misconduct reports, investigations leading to or arising from misconduct reports, or disciplinary hearings, findings, and sanctions; ¶
- (h) Claims or issues the AIC the adult in custody has pursued or is pursuing in pending litigation in state or federal courts; ¶
- (i) Group grievances representing other AICs, or acts where an AIC is a spokesperson for other AICs; and ¶
- ~~(j) The processing of or~~ The processing of, response to, or late response to grievances, grievance appeals, discrimination complaints, discrimination complaint appeals, or other separate review processes; and ¶
- ~~(j) Group grievances representing other adults in custody, or acts where an adult in custody is a spokesperson for other adults in custody.~~

Statutory/Other Authority: ORS 179.040, 179.321, 423.020, 423.030, 423.075, ~~423.020~~

Statutes/Other Implemented: ORS 179.040, 179.321, 423.020, 423.030, 423.075, ~~423.020~~

AMEND: 291-109-0215

RULE SUMMARY: Amends rule to align language with other department rules; for consistency within these rules; to clarify the rules; and to reorganize rules.

CHANGES TO RULE:

291-109-0215

Grievance and Grievance Appeal Submission Limits

(1) An ~~AIC~~ adult in custody shall not have more than four active complaints (grievances, discrimination complaints, or appeals of either) at any time. Any grievance or grievance appeal submitted ~~that exceeding~~ that limit will be found to be an improper use of the grievance review and discrimination complaint review systems and returned to the ~~AIC~~ adult in custody with a statement of the rule.¶

(2) An ~~AIC~~ adult in custody may not submit more than a combined total of four initial ~~AIC~~ grievances and discrimination complaints per calendar month.¶

(3) ~~Emergency grievances as defined under OAR 291-109-0110 (8), sexual harassment~~ For purposes of these rules, an emergency grievance, as defined under in OAR 291-109-0110-(19) and sexual abuse grievances submitted under OAR 291-109-0245 (or any appeal of either) are ~~2), or any appeal regarding an emergency grievance, is~~ not counted when determining, ~~for purposes of this rule,~~ the number of active complaints or the number of submitted grievances or discrimination complaints within any calendar month.¶

(4) Any grievance or discrimination complaint (or appeal of either) received that causes the ~~AIC~~ adult in custody to exceed the limits described in OAR 291-109-0215(1) or (2) will be considered an improper use of the grievance review and discrimination complaint review systems.¶

(5) ~~The requirements of OAR 291-109-0215 do not apply to emergency grievances, sexual harassment grievances or sexual abuse grievances.~~¶

(6) ~~When determining the total number of active complaints, the Department will not count any complaint (grievances, discrimination complaints, or appeals of either) submitted prior to the first effective date of this rule.~~

Statutory/Other Authority: ~~ors~~ ORS 179.040, 179.321, 423.020, 423.030, 423.075, 179.321

Statutes/Other Implemented: ~~ors~~ ORS 179.040, 179.321, 423.020, 423.030, 423.075, 179.321



AMEND: 291-109-0220

RULE SUMMARY: Amends rule to clarify the rules; and for consistency within these rules.

CHANGES TO RULE:

291-109-0220

Grievance and Grievance Appeal Submission Requirements

(1) ~~If an AIC~~ An adult in custody who is unable to resolve an issue through informal communication, dispute with an employee, contractor, or volunteer of the Department encourages the AIC to seek resolution of the issue of Corrections or Oregon Corrections Enterprises through informal communication, may seek resolution of their grievance through the department's internal grievance review system by submitting a written grievance to the institution grievance coordinator using ~~the~~ the department's-approved AIC-grievance form in accordance with these rules. As with informal communications, AICs adults in custody shall use a civil and respectful tone and manner in their written grievances to attempt to resolve the ~~issue~~ problem or concern.¶

(a) Instructions for filing agrievances and grievance appeals are found on the reverse side of the AIC-grievance forms, or the AICadult in custody may contact the institution grievance coordinator or the law library: for assistance.¶

(b) Functional unit managers or designees shall ensure the approved AIC grievance and grievance appeal forms are readily available to AICs in DOC adults in custody in Department of Corrections facilities.¶

(2) An AICadult in custody must use their DOC-court name when submitting a grievance or grievance appeal, which must be entered in the designated "Name" portion of the form. A secondary name an AICadult in custody is known by may also be listed underneath their court name on the form by adding "AKAaka" (or "also known as") before the additional name.¶

(3) Grievances and grievance appeals must be legible and written within the appropriate space provided. A grievance or grievance appeal may be up to three pages (single-sided) in length. An AICadult in custody must use a grievance form for each page of the grievance or grievance appeal. Grievances and grievance appeals that are not legible or contain multiple sentences per line will be returned to the AICadult in custody for correction.¶

(4) An initial grievance must include a complete description of the incident ~~or~~, issue, or action being grieved, including date and time of the incident ~~or~~, issue, or action being grieved, and the individual responsible for the incident ~~or~~, issue.¶

~~(5) An AIC, or action.~~¶

(5) An adult in custody may only submit supporting documentation if it directly relates to the incident or issue being grieved, such as program failures, AIC communications, etc. Any supporting documentation should be attached and submitted with the grievance and grievance appeals. An AICadult in custody may submit no more than five pages (single-sided) of supporting documentation ~~total~~ per grievance or grievance appeal. Communication forms seeking a response should not be attached to a grievance and should be submitted separately.¶

(6) If an AICadult in custody cannot complete the grievance or grievance appeal form due to physical or mental impairments or language barriers, the AICadult in custody may contact the legal law library for assistance. An AIC may also contact the, institution grievance coordinator, or institution ADA coordinator to request assistance.¶

(7) An AICadult in custody may not write a grievance for another AIC or grievance appeal for another adult in custody unless authorized by the institution grievance coordinator or institution ADA coordinator. However, the AICadult in custody submitting the grievance or grievance appeal must still sign the grievance form(s).¶

(8) An AICadult in custody may submit only their signature on grievance or grievance appeal forms and all pages of the grievance or grievance appeal forms must be signed and dated.¶

(9) Grievances and grievance appeal forms with foreign substances or potential biological hazards on them will not be processed. They will be disposed of in accordance with the institution's procedure on biological hazards. If the AICs name and adult in custody's name and state identification number (SID) is known, the institution grievance coordinator will notify the AICadult in custody of the actions taken.¶

(10) Grievances and grievance appeal forms containing sexually explicit, derogatory, or offensive artwork, drawings, or other sexually explicit material will be returned to the adult in custody for correction.¶

(11) Grievance and grievance appeal forms containing hostile, sexual, abusive, or threatening language or gestures towards or about another person will be returned to the adult in custody for correction.

Statutory/Other Authority: ~~ORS~~ ORS 179.040, 179.321, 423.0320, 423.0230, 423.075

Statutes/Other Implemented: ~~ORS~~ ORS 179.040, 179.321, 423.0320, 423.0230, 423.075

AMEND: 291-109-0225

RULE SUMMARY: Amends rule to align language with other department rules; to clarify the rules; for consistency within these rules; and to reorganize rules.

CHANGES TO RULE:

291-109-0225

Grievance and Grievance Appeals General Processing Standards

(1) The institution grievance coordinator shall date stamp the grievance form ~~or grievance appeal form~~ upon receipt. After the grievance or grievance appeal form has been date stamped and recorded, the AIC adult in custody will be issued a return receipt, and if accepted, the grievance or grievance appeal will be forwarded to the appropriate staff employee or manager for review and response.¶

(2) Grievances and Grievance Appeals ~~Returned for~~ Correction:¶

(a) An AIC adult in custody may elect to resubmit a grievance or grievance appeal that has been returned ~~for correction to the AIC because it~~ to the adult in custody for correction because the grievance or grievance appeal does not comply with these rules.¶

(b) The grievance or grievance appeal may only be resubmitted twice and must be received by the institution grievance coordinator within 14 calendar days from the date when the grievance or grievance appeal was originally returned to the AIC.¶

~~(c) If rewritten~~ adult in custody.¶

(c) If corrected and resubmitted by the adult in custody, the return receipt and original grievance or grievance appeal must also be attached.¶

(3) If at any time the institution grievance coordinator determines the AIC ~~has pursued their issue through~~ adult in custody has pursued or is pursuing the claim through pending litigation in state or federal courts, the grievance process will be ~~closed~~ and the grievance ~~will be returned to the AIC~~. The grievance coordinator will retain a copy of the AIC's grievance or grievance appeal will be closed and returned to the adult in custody. The institution grievance coordinator will retain a copy of the adult in custody's grievance or grievance appeal and document the date and reason for closure of the grievance.¶

(4) An AIC ~~may withdraw a grievance~~ adult in custody may withdraw an accepted grievance or grievance appeal by submitting a written request to the institution grievance coordinator at any time during the grievance process. Grievances or grievance appeals that have been withdrawn may only be reopened upon written request, at the discretion of the institution grievance coordinator within 14 calendar days from when the adult in custody requested to withdraw the grievance or grievance appeal.¶

(5) A denied grievance or grievance appeal cannot be appealed.¶

~~(56)~~ Once an AIC adult in custody's request for resolution is granted, ~~DOC~~ the department may, in its sole discretion, ~~discontinue further processing of the grievance and notify the AIC~~ upon approval of the Inspector General or designee, discontinue further processing of the grievance or grievance appeal and notify the adult in custody of the conclusion of the administrative review process.¶

~~(67)~~ If an AIC adult in custody has filed a Notice of Tort Claim with the Oregon Department of Administrative Services while an AIC ~~has an active complaint~~ the adult in custody has an active grievance or grievance appeal on the same incident or issue, and the primary remedy sought by the grievance is monetary relief, ~~DOC~~ the department may, in its sole discretion, ~~discontinue further processing of the grievance and notify the AIC~~ upon approval of the Inspector General or designee, discontinue further processing and notify the adult in custody of the conclusion of the administrative review process.¶

~~(78)~~ The Assistant Director, or ~~the Assistant Director's~~ designee, who is responsible for providing a response in a final grievance appeal under OAR 291-109-0235, may ~~with the~~ upon approval of the Inspector General or designee, discontinue further processing of the final grievance appeal after the ~~Department's~~ department's ~~initial~~ review and response to the initial grievance, or after the ~~Department's~~ department's review and response to the initial grievance appeal. In such a case, the ~~Department~~ department will include in its response to the AIC adult in custody's initial grievance or initial grievance appeal that the ~~Department's~~ department's response is final, and that no further response or appeal will be provided.¶

~~(89)~~ Once an AIC adult in custody has released from the custody of the Department of Corrections, any ~~pending~~ active grievances or grievance appeals will be ~~completed~~ responded to and held on file; unless other arrangements have been made with the institution grievance coordinator prior to release. No further grievances or grievance appeals will be accepted.¶

~~(910)~~ If a grievance or grievance appeal is received by the institution grievance coordinator after the AIC adult in custody has released from the custody of the Department of Corrections, the ~~complaint~~ grievance or grievance appeal no longer complies with ~~this~~ these rules and will ~~not be~~ process denied.

Statutory/Other Authority: ORS179.040, 179.321, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS179.040, 179.321, 423.020, 423.030, 423.075

AMEND: 291-109-0230

RULE SUMMARY: Amends rule to clarify the rules; and for consistency within these rules.

CHANGES TO RULE:

291-109-0230

Initial Grievance Appeals

(1) An AICadult in custody may appeal the initial grievance response using the grievance appeal form.¶

(a) The initial grievance appeal must include the original grievance, attachments, and ~~staff~~employee response(s).¶

(b) The initial grievance appeal must comply with the timeframes set forth in OAR 291-109-0205.¶

(c) The scope of the original grievance cannot be expanded on appeal.¶

(d) No new information may be submitted with the initial grievance appeal unless the information was unavailable to the AICadult in custody at the time the original grievance was filed or if the initial grievance response noted that the information was missing and the submitted information is directly related to the alleged issue or incident being grieved.¶

(e) After the initial grievance appeal has been date stamped and recorded, the AICadult in custody will be issued a return receipt. If accepted, the initial grievance appeal will be forwarded to the functional unit manager or designee for review and response.¶

(f) If an initial grievance appeal is returned to the AICadult in custody because it does not comply with these rules, the AICadult in custody may elect to resubmit the initial grievance appeal to the institution grievance coordinator. In order to be accepted, the initial grievance appeal must be received by the institution grievance coordinator within 14 calendar days from the date it ~~the~~ initial grievance appeal was sent back to the AICadult in custody for correction and have the required corrections to bring the ~~document~~ initial grievance appeal into compliance with ~~these~~ rules. The returned receipt must accompany the resubmission. ~~If rewritten~~ initial grievance appeal. If corrected and resubmitted, the original grievance appeal and complete packet must also be attached to the initial grievance appeal. Multiple resubmissions may not exceed the initial 14-day timeline.¶

(g) ~~A denied initial grievance or appeal cannot be appealed.~~¶

(h) The functional unit manager or designee shall respond to the AIC'sadult in custody's initial grievance appeal within the timeframes set forth in OAR 291-109-0205.¶

(2) If an AIC has filed a Notice of Tort Claim with the Oregon Department of Administrative Services while an AIC has an active complaint, and the primary remedy sought by the grievance is monetary relief, DOC may, in its sole discretion, discontinue further processing of the grievance and notify the AIC of the conclusion of the administrative review process.

Statutory/Other Authority: ~~ORS~~ ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075

Statutes/Other Implemented: ~~ORS~~ ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075

AMEND: 291-109-0235

RULE SUMMARY: Amends rule to align language with other department rules; to clarify the rules; and for consistency within these rules.

CHANGES TO RULE:

291-109-0235

Final Grievance Appeals

(1) An AICadult in custody may appeal ~~the~~ functional unit manager's or designee's response to an initial grievance appeal using the grievance appeal form.¶

(a) The final grievance appeal must include the original grievance, initial grievance appeal, attachments and staffemployee responses(s).¶

(b) The final grievance appeal must comply with the timeframes set forth in OAR 291-109-0205.¶

(c) The scope of the original grievance cannot be expanded on appeal.¶

(d) No new information may be submitted with the final grievance appeal unless the information was unavailable to the AICadult in custody at the time the original grievance was filed or if the initial grievance response or initial grievance appeal response noted that the information was missing and the submitted information is directly related to the alleged issue or incident being grieved.¶

(e) After the final grievance appeal has been date stamped and recorded, the AICadult in custody will be issued a return receipt. If accepted, the final grievance appeal will be forwarded to the Assistant Director or designee having authority to review and resolve the ~~issue, problem or concern~~.¶

(f) If a final grievance appeal is returned to the AICadult in custody because it does not comply with these rules, the AICadult in custody may elect to resubmit the final grievance appeal to the institution grievance coordinator. In order to be accepted, the final grievance appeal must be received by the institution grievance coordinator within 14 calendar days from the date ~~it~~ the final grievance appeal was sent back to the AICadult in custody for correction and have the required corrections to bring the ~~document~~ final grievance appeal into compliance with ~~these~~ rules. The returned receipt must accompany the resubmission. ~~If rewr~~ rewritten final grievance appeal. If corrected and resubmittend, the original grievance appeal and complete packet must also be attached to the final grievance appeal. Multiple resubmissions may not exceed the initial 14-day timeline.¶

(g) ~~A denied initial grievance or appeal cannot be appealed.~~¶

(h) The Assistant Director or designee shall respond to the AIC'sadult in custody's final grievance appeal within the timeframes set forth in OAR 291-109-0205.¶

(i) The Assistant Director's or designee's decision on an AIC's grievance appeal is final, and is not subject to further review.¶

(2) If an AIC has filed a Notice of Tort Claim with the Oregon Department of Administrative Services while an AIC has an grievance appeal, and the primary remedy sought by the grievance is monetary relief, then DOC may, inadult in custody's final grievance appeal is final and its sole discretion, discontinue further processing of the grievance and notify the AIC of the conclusion of the administrative review processnot subject to further review.

Statutory/Other Authority: ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075, ~~179.360~~

Statutes/Other Implemented: ORS 179.040, 179.321, 179.360, 423.020, 423.075, ~~179.360~~ 30, 423.075

AMEND: 291-109-0240

RULE SUMMARY: Amends rule to remove PREA-related grievances concerning sexual harassment and sexual abuse in order to streamline the PREA reporting process through the Grievance Review System; to clarify the rules; and for consistency within these rules.

CHANGES TO RULE:

291-109-0240

#### Improper Use of Grievance Review System

(1) An Adult in custody improperly uses the grievance system when they:

(a) Include language that is identified as posing a criminal threat;

(b) Repeatedly submit grievances, discrimination complaints, or appeals of either, that do not comply with the requirements set forth in ~~these~~ rules, including, but not limited to, multiple resubmissions of the same grievance or grievance appeal, multiple untimely grievances, and multiple resubmissions of uncorrected grievances; or

(c) Submit grievances, discrimination complaints, or appeals of either, in excess of the allowed limitations set forth in OAR 291-109-0215.

(2) Administrative ~~a~~ Action for i ~~l~~ Improper u ~~Use of the g~~ Grievance s ~~Review System:~~

(a) If an Adult in custody demonstrates a pattern of improper use of the grievance review system, the functional unit manager or designee will notify the Adult in custody in writing that their actions are not in compliance with the ~~grievance rules~~ department's rules on Grievance Review System (OAR 291-109) or Discrimination Complaint Review System (OAR 291-006). From the date of the notice, the Adult in custody will have 35 calendar days to bring their ~~complaint~~ grievance submissions into compliance with the rules or the Adult in custody will be subject to restriction of their access to the grievance review and discrimination complaint review systems as specified in this rule.

(b) Adults in custody who continue to improperly use the grievance review system will be notified by the Inspector General or designee, in writing, that such actions are creating an administrative burden at the expense of legitimate complaints. From the date of this notification, due to their continued improper use of the grievance ~~and~~ review or discrimination complaint review systems, the Adult in custody will be limited to submitting no more than two active grievances or discrimination complaints at a time, excluding emergency ~~grievances, sexual harassment grievances and sexual abuse grievances~~ grievances. Any grievances or discrimination complaints submitted that are not in compliance with this restriction will not be processed.

(c) Once the Adult in custody has demonstrated compliance for 35 calendar days, the Adult in custody may request removal of the administrative restriction by writing to the institution grievance coordinator who will forward the request to the Adult in Custody Complaint Review Committee (AICCRC) for review.

(d) An Adult in custody's request for removal of the administrative restriction will be responded to by the Inspector General or designee upon review of the Adult in custody's request and the recommendation of the Adult in Custody Complaint Review Committee (AICCRC) within 70 calendar days from the date the request was received. The administrative restriction will remain in effect until such time it is reviewed and removed by the Inspector General or designee.

(e) Administrative restrictions are not subject to review through the grievance review or discrimination complaint ~~process~~ review systems.

(f) Records of active and inactive notifications of improper use of the grievance review system will be maintained by the institution grievance coordinator or institution discrimination complaint coordinator and will be enforced throughout the department, regardless of the Adult in custody's facility.

Statutory/Other Authority: ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075

AMEND: 291-109-0245

RULE SUMMARY: Amends rule to clarify the process for PREA-related grievances concerning sexual harassment or sexual abuse in order to streamline the PREA reporting process through the Grievance Review System; to clarify the rules; for consistency with these rules; and to remove gendered language.

CHANGES TO RULE:

291-109-0245

Sexual Abuse Grievances Grievances Related to Sexual Abuse or Sexual Harassment

(1) A grievance related to a claim of sexual harassment or sexual abuse will be immediately subject to investigation that is outside the department's administrative remedies process.

(2) For purposes of this rule sexual abuse is defined as sexual abuse of an AIC by another AIC and sexual abuse of an AIC by a staff member.

(a) Ss. the term "sexual harassment" is defined in OAR 291-109-0110(20), and the phrase "related to a claim of sexual harassment or sexual abuse" includes claims of sexual abuse, fear of sexual abuse, or allegations of mishandling of an incident, issue, or investigation of sexual abuse such as retaliation for reporting or retaliation for cooperating with a sexual abuse investigation.

(3) For purposes of these rules, the term "sexual abuse" is defined as sexual abuse of an adult in custody by another adult in custody and sexual abuse of an AIC by another AIC adult in custody by an employee.

(a) The term "sexual abuse" includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse.

(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) Contact between the mouth and the penis, vulva, or anus;

(C) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and

(D) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

(b) Sexual abuse of an AIC by a DOC or OCE adult in custody by an employee, contractor or volunteer of the Department or OCE of Corrections or Oregon Corrections Enterprises includes any of the following acts, with or without consent of the AIC adult in custody, detainee, or resident:

(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) Contact between the mouth and the penis, vulva, or anus;

(C) Contact between the mouth and any body part where a DOC or OCE employee, contractor, or volunteer of the Department or OCE of Corrections or Oregon Corrections Enterprises has the intent to abuse or arouse.

(D) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where a DOC or OCE employee, contractor, or volunteer of the Department or OCE of Corrections or Oregon Corrections Enterprises has the intent to abuse, arouse, or gratify sexual desire;

(E) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to the official duties or where a DOC or OCE employee, contractor, or volunteer of the Department or OCE of Corrections or Oregon Corrections Enterprises has the intent to abuse, arouse or gratify sexual desire;

(F) Any attempt, threat, or request by a DOC or OCE employee, contractor, or volunteer of the Department or OCE of Corrections or Oregon Corrections Enterprises to engage in the activities described by paragraphs (A) - (E) of this section;

(G) Any display by a DOC or OCE employee, contractor, or volunteer of the Department or OCE of his or her uncovered genitalia, buttocks, or breast in the presence of an AIC adult in custody, detainee, or resident, and

(H) Voyeurism by a DOC or OCE employee, contractor, or volunteer of the Department or OCE of Corrections or Oregon Corrections Enterprises. Voyeurism by a staff member employee, contractor or volunteer means an invasion of the adult in custody's privacy of by an AIC by staff employee, contractor or volunteer for reasons unrelated to official duties, such as peering at an AIC adult in custody who is using a toilet in his or their cell to perform bodily functions; requiring an AIC adult in custody to expose his or their buttocks, genitals, or breasts; or taking images of all or part of an AIC's naked body or of an AIC performing bodily functions.

(2) Grievances alleging sexual abuse must be submitted to the institution grievance coordinator on the department's approved AIC grievance form. The grievance should have the words "sexual abuse grievance" clearly written on the first line of the grievance form.

(3) There is no time limit on when an AIC may submit a grievance regarding an allegation of sexual abuse.

(4) Third parties, including fellow AICs, staff members, family members, attorneys, and outside advocates, shall be

permitted to assist AICs in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of AIC adult in custody's naked body or of an adult in custody performing bodily functions. ¶

(a4) If a third party files such a request on behalf of an AIC, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on their behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. ¶

(b) If the AIC declines to have the request processed on their behalf, the agency shall document the AIC's decision. ¶

(5) The institution grievance coordinator may not refer a grievance alleging sexual abuse to a staff member who is the subject of the grievance. The institution grievance coordinator will coordinate with the appropriate manager by sending the grievance and a grievance response form to the manager respondent for reply. ¶

(6) The department shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. ¶

(a) The department may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The department shall notify the AIC in writing of any such extension and provide a date by which a decision will be made. ¶

(b) If the AIC does not receive a response within the time allotted for reply, including any properly noticed extension, the AIC may consider the absence of a response to be a denial of the allegations made by the AIC. ¶

(7) An AIC who alleges that he or she is subject to a substantial risk of imminent sexual abuse may provide the grievance directly to the officer in charge (OIC) or the OIC's designee. ¶

(a) After receiving an emergency grievance alleging an AIC is subject to a substantial risk of imminent sexual abuse, the OIC or the OIC's designee shall immediately review and take immediate corrective action as necessary to mitigate the risk of sexual abuse. ¶

(b) The institution grievance coordinator will issue to the AIC a response to the sexual abuse grievance within five days of the submission of the emergency grievance. ¶

(c) The response shall document the department's determination whether the AIC is in substantial risk of imminent sexual abuse and any action, if necessary, taken in response to the emergency grievance. A grievance related to a claim of sexual harassment or sexual abuse will not be considered or counted as a grievance or discrimination complaint under the department's rules on Grievance Review System (OAR 291-109) or Discrimination Complaint Review System (OAR 291-006).

Statutory/Other Authority: ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075



AMEND: 291-109-0250

RULE SUMMARY: Amends rule to change the term "inmate" in the rule title to "adult in custody".

CHANGES TO RULE:

291-109-0250

Retention of ~~Inmate~~Adult in Custody Grievances

(1) The institution grievance coordinator will retain a file copy of grievances with pertinent documents, including appeals, in accordance with the department's approved retention schedule for these records.¶

(2) ~~AIC~~gGrievances will not be filed in the ~~AIC~~adult in custody's working file.¶

(3) ~~AIC~~gGrievances will not be filed in the ~~staff~~employee's working file.

Statutory/Other Authority: ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 179.040, 179.321, 179.360, 423.020, 423.030, 423.075