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# WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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## CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

### CLEARINGHOUSE RULE 02-038

AN ORDER to repeal and recreate DOC 310, relating to complaint procedures.

Submitted by **DEPARTMENT OF CORRECTIONS**

03-28-02 RECEIVED BY LEGISLATIVE COUNCIL.

04-22-02 REPORT SENT TO AGENCY.

RNS:SPH:ksm;tlu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO



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## CLEARINGHOUSE RULE 02-038

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

a. It would be more helpful to persons interested in the changes proposed in ch. DOC 310 by Clearinghouse Rule 02-038 to amend specific provisions rather than repeal and recreate the entire chapter. Most of the provisions of ch. DOC 310 are unaffected by the revision. However, in order to evaluate the changes that are being proposed, an interested person must review the entire chapter line-by-line in order to find the provisions that are revised.

b. Section titles should be shown in bold print. [See s. 1.05 (2) (b), Manual.]

c. All subunits of a rule should end with a period rather than a semicolon.

d. The effective date clause needs to be more specific, rather than providing bracketed alternatives.

#### 4. Adequacy of References to Related Statutes, Rules and Forms

In s. DOC 310.11 (7), the reference to "these rules" should be more specific. Should the reference be to "this chapter" or "this section"?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The meaning of the phrase “official or individual capacity” in s. DOC 310.05 is unclear--especially the reference to “individual capacity”--since the provision refers to “acts or omissions committed while carrying out that person’s duties . . . or while acting within the scope of the person’s office . . . .”

b. Section DOC 310.07 (2) uses the term “examiner,” rather than the defined term “ICE” or “institution complaint examiner.”

c. Section DOC 310.07 (6) states that the “CCE reviews appeals . . . .” Currently, this provision states that the “CCE investigates appeals . . . .” The reference to “investigates” is consistent with the definition of “CCE.” This inconsistency should be reconciled.

**PROPOSED ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF CORRECTIONS  
ADOPTING RULES**

1 The Wisconsin department of Corrections proposes an order to repeal and recreate rule DOC 310  
2 relating to complaint procedures.

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Statutory Authority: ss. 302.02, 301.03(2) and 227.11(2), Stats.  
Statutes Interpreted: ss. 301.02 and 301.03(2), Stats.

**Analysis Prepared by the Department of Corrections...**

3  
4 The department's rule on inmate complaint procedures was last amended in 1998. Since that  
5 time the department has designed and added a new database and automated many of the record-  
6 keeping functions described in this rule. As prison administration continually evolves, so must  
7 our administrative code. For these reasons, the department proposes updating the rule.  
8

9 Since implementing the department's Inmate Complaint Tracking System, physical processing of  
10 inmate complaints has changed. This rule helps to clarify the process and that, in turn, promotes  
11 efficiency as well as understanding. For example, this rule proposal eliminates various vague  
12 statements such as in DOC 310.06(2)(b) which states that the Inmate Complaint Examiner may  
13 "reject a complaint in accordance with provisions of this chapter;" and inserts a more concrete  
14 statement of "return complaint forms that do not meet the filing requirements of this chapter."  
15 This language is more specific and provides inmates with the clear understanding that their  
16 complaints may be returned without being processed for failure to comply with filing  
17 requirements. The previous statement notified inmates that they might have their complaint  
18 returned but did not go as far to inform the inmate of a specific reason. Clarity in this rule may  
19 even lead to fewer inmate complaints, as they may understand the system better. The addition of  
20 specific requirements in s DOC 310.09(1) ensures that inmates know exactly what is required of  
21 them in filing complaints. It ensures easier processing of complaints through consistency and  
22 should logically result in fewer inmate complaints being returned for incomplete filing. This  
23 clarification will also assist the department in investigating inmate complaints in a timelier  
24 manner.  
25

26 This proposed rule also eliminates redundancy by removing such items as DOC 310.08(1),  
27 which states that "an inmate may use the complaint review system individually or with a group  
28 of inmates collectively." This statement is simply not necessary at this point in the rule as it is  
29 addressed in detail in ss. DOC 310.09 as well as 310.10.  
30

31 This rule proposal eliminates unnecessary directives regarding internal processing such as in ss.  
32 DOC 310.08(4) and (5), which state where complaints will be directed within the department.  
33 DOC 310.11(1) is also amended to simplify existing language to merely specify that "ICE staff"  
34 collect complaints.  
35

36 This rule proposes changes in the time limits throughout the complaint process. The time limit  
37 for making a recommendation to the appropriate reviewing authority and the time needed to  
38 render a decision have each expanded by five working days. This change reflects both the  
39 increased time needed to effectively review and decide certain complaints, as well as the time  
40 needed to review the increasing number of complaints from a growing inmate population.

41  
42 The current rule allows an inmate to appeal only a frivolous complaint to the appropriate  
43 reviewing authority, while this proposed rule allows inmates to appeal a rejected complaint to the  
44 appropriate reviewing authority. Non-frivolous complaints are currently reviewed directly by the  
45 Corrections Complaint Examiner, thereby skipping a logical step in the process. The proposed  
46 rule also makes the reviewing authority's decision final in all appeals, not just frivolous appeals  
47 as in the current rule.

48  
49 In summary, this rule proposal more logically and succinctly explains the progression of the  
50 complaint from its origin with the inmate through the appeal process and final decision, when  
51 applicable, by the Office of the Secretary of the Department of Corrections.

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52 **SECTION 1. Chapter DOC 310 is repealed and recreated to read:**

53  
54  
55 DOC 310.01 Purpose. *word*

- 56  
57 (1) The policy of the department of corrections is to afford inmates in adult institutions a  
58 process by which grievances may be expeditiously raised, investigated, and decided. If the  
59 decision requires a change in administrative practice, the department shall implement the change.  
60  
61 (2) The department has the following objectives for the inmate complaint review system:  
62  
63 (a) To allow inmates to raise, in an orderly fashion, significant issues regarding rules, living  
64 conditions, and staff actions affecting institution environment.  
65  
66 (b) To provide the department an early opportunity to decide the issue before an inmate  
67 commences a civil action or special proceeding against a department officer, employee or  
68 agent in the officer's, employee's or agent's official or individual capacity.  
69  
70 (c) To encourage communication between inmates and staff.  
71  
72 (d) To develop inmates' sense of involvement in and respect for the correctional process.  
73  
74 (e) To explain correctional policy to inmates and staff.  
75
- N/C

76 (f) To afford inmates and staff the opportunity to review correctional policy and gain further  
77 insight into the correctional system.

78  
79 (g) To correct any errors and deficiencies in correctional policy through questioning and review.  
80

81 (h) To allow inmates to raise civil rights grievances.  
82

83 DOC 310.02 Applicability. Pursuant to authority vested in the department of corrections under  
84 ss. 301.02, 301.03 (2), and 227.11 (2), Stats., the department adopts this chapter which applies to  
85 the department and all inmates confined in a state adult correctional facility. This section  
86 interprets ss. 301.02 and 301.03 (2), Stats. N/C

87  
88 DOC 310.03 Definitions. In this chapter:  
89 *Handwritten: N/A / CCE / N/C*

90 (1) "Administrator" means an administrator in a division of the department of  
91 corrections, or designee. N/C

92  
93 (2) "Appropriate reviewing authority" means the warden, bureau director, administrator  
94 or designee who is authorized to review and decide an inmate complaint. N/C

95  
96 (3) "Calendar days" means all days including Saturdays, Sundays, and state legal holidays. N/C

97  
98 (4) "Calendar week" means Sunday through Saturday. N/C

99  
100 (5) "CCE" or "corrections complaint examiner" means the employee of the department, who is  
101 assigned to a subunit that is not within the division of adult institutions, and who is designated by  
102 the secretary to investigate complaints appealed to the secretary. N/C

103  
104 (6) "Civil rights grievance" means any inmate complaint relating to an incident affecting the  
105 delivery of services to an inmate who alleges discrimination on the basis of race, creed, ethnicity,  
106 national origin, sex, handicap, age, religion, color, ancestry, sexual orientation or marital status. N/C

107  
108 (7) "Department" means the department of corrections. N/C

109  
110 (8) "Director" means a director of a department of corrections bureau, or designee. *Dis or Des*  
111 *Change in language*

112 (9) "Emergency" means any situation determined by the secretary to affect the security or  
113 orderly administration of the institution or the security, safety, or health of staff. N/C

114  
115 (10) "ICE" or "institution complaint examiner" means the person or persons at each adult  
116 correctional institution assigned by the warden to investigate complaints filed by inmates. *Change*  
117 *clarify*

118 (11) "ICRS" or "inmate complaint review system" means the process by which complaints  
119 filed by inmates of adult correctional institutions are investigated and resolved.

120  
121 (12) "Malicious injury" means injury to the department or a person as the result of hatred, ill

will, revenge, or as the result of intent to insult or injure. *NIC*

(13) "Reprisal" means any action or threat of action against anyone for their good faith participation in the complaint procedure. *NIC*

(14) "Secretary" means the secretary of the department of corrections, or designee. *NIC*

(15) "Significant issue" means a serious or important defect or omission. *NIC*

(16) "Warden" means the warden, superintendent, or designee. *NIC*

(17) "Working days" means all days except Saturdays, Sundays, and state legal holidays. *NIC*

DOC 310.04 Inmate complaint review system.

(1) To achieve the purpose and objectives of s. DOC 310.01, the department shall maintain an inmate complaint review system in the state adult correctional facilities.

(2) Each warden shall appoint an institution complaint examiner whose responsibility shall be complaint investigation. The warden may designate any employee to function as ICE in addition to other duties. *each facility, must have?* *← paid*

(3) The ICE shall have access to institution staff, inmates, and any institution or department records required when investigating a complaint. *as happens - it creates an*

DOC 310.05 Exhaustion of administrative remedies.

Before an inmate may commence a civil action or special proceedings against any officer, employee or agent of the department in the officer's, employee's or agent's official or individual capacity for acts or omissions committed while carrying out that person's duties as an officer, employee or agent or while acting within the scope of the person's office, the inmate shall exhaust all administrative remedies that the department of corrections has promulgated by rule. *new* *(longer)*

DOC 310.06 Communication of procedures.

The department shall make the written complaint procedure readily available to all inmates. The department shall provide each inmate written notification and an oral explanation of the complaint procedures. The department shall provide an inmate the opportunity to ask and have questions answered. The department shall make appropriate provisions for non-English speaking, impaired or handicapped inmates. *NIC* *return from* *310.05*

DOC 310.07 Organization of inmate complaint review system.

(1) To use the complaint system, an inmate files a complaint under ss. DOC 310.09, 310.10 or 310.16 (4). *new*

Why not use the def. term ICF  
as under current rule  
if not going to use def. term

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(2) The examiner then may do any of the following:

(a) Investigate the complaint under s. DOC 310.11 or 310.16 (4);

(b) Return complaint forms that do not meet the filing requirements of this chapter;

(c) Recommend a decision to the appropriate reviewing authority under s. DOC 310.12 (1) or to the secretary under s. 310.13 (6).

(3) The appropriate reviewing authority or secretary makes a decision under s. DOC 310.12 (2) or 310.14 (2).

(4) An inmate may appeal an adverse decision under s. DOC 310.11 (6) or 310.13.

(5) The reviewing authority's decision on appeals under 310.11 (6) and the secretary's decision on complaints under 310.16 (4) are final.

(6) The CCE reviews appeals under s. DOC 310.13 and makes a recommendation to the secretary.

(7) The secretary shall review the CCE's report, make a decision under s. DOC 310.14, and ensure implementation under s. DOC 310.15.

DOC 310.08 Scope of complaint review system.

(1) An inmate may use the ICRS to raise significant issues regarding rules, living conditions, staff actions affecting institution environment, and civil rights complaints in accordance with this chapter.

(2) An inmate may not use the ICRS to raise the following issues:

(a) Any issue related to a conduct report, unless the inmate has exhausted the disciplinary process in accordance with ch. DOC 303;

(b) A program review committee's decision; NIC

(c) A decision of the parole commission; NIC

(d) The denial of a request for an authorized leave as provided in ch. DOC 326; NC

(e) A challenge to an inmate record, including a pre-sentence investigation report;

(f) A denial of an open record request. NIC

(3) After exhausting the appeal process in s. DOC 302.18, 303.75, 303.76, 308.04, or 326.06, an

don't define  
New  
revised  
(2) (6)  
addressed  
in Analysis

does CCE  
investigate  
review

NIC

See Analysis

excepted out as per heading

new (current rule 302.19)

214 inmate may use the ICRS to challenge only the procedure used in the program review process,  
215 the disciplinary process, the administrative confinement review process, or by any decisionmaker  
216 acting on a request for authorized leave.

217  
218 DOC 310.09 Filing of complaints.

219  
220 (1) Complaints filed by an inmate or a group of inmates shall:

221  
222 (a) Be typed or written legibly on forms supplied for that purpose;

223  
224 (b) Be signed by the inmate;

225  
226 (c) Not contain language that is obscene, profane, abusive, or threatens others, unless such  
227 language is necessary to describe the factual basis of the substance of the complaint;

228  
229 (d) Be filed only under the name by which the inmate was committed to the department or the  
230 legal name if an inmate has had a name change;

231  
232 (e) Contain only one issue per complaint, and shall clearly identify the issue;

233  
234 (2) Inmates may not file more than two complaints per calendar week, except that the ICE may  
235 waive this limit for good cause. The ICE shall exclude complaints that raise health and  
236 personal safety issues from this limit.

237  
238 (3) The ICE shall return, and not process as complaints, submissions that do not meet the  
239 following requirements:

240  
241 (4) Prior to accepting the complaint, the ICE may direct the inmate to attempt to resolve the  
242 issue.

243  
244 (5) The institution shall make complaint forms accessible to inmates. NC

245  
246 (6) An inmate shall file a complaint within 14 calendar days after the occurrence giving rise to  
247 the complaint, except that the institution complaint examiner may accept a late complaint for  
248 good cause. NC

249  
250 (7) The department shall not exclude impaired, handicapped or illiterate inmates from full  
251 participation in the ICRS. If an inmate is unable to write a complaint, the inmate may seek  
252 assistance in doing so. NC

253  
254 (8) An inmate shall file a signed complaint by depositing it in a locked box designated for  
255 complaints or by submitting it to the office of the ICE via institution mail. NC

256  
257 DOC 310.10 Group complaints.

258  
259 (1) Except as noted in this section, the ICE shall process group complaints in the same way as NC

260 individual complaints.

261  
262 (2) Inmates who have a complaint in common may file as a group by using one complaint form.  
263 All complainants shall sign the form. The group shall designate a spokesperson or, if none is  
264 designated, the first name signed on the first complaint shall be deemed the spokesperson for the  
265 group. A group complaint counts as a complaint under  
266 s. DOC 310.09 (1) (f). NC

267  
268 (3) The ICE shall issue a receipt acknowledging the complaint only to the spokesperson. Tech

269  
270 (4) The reviewing authority shall determine the manner in which decisions in group complaints  
271 are issued. Carrick

272  
273  
274 (5) The CCE shall issue a receipt acknowledging the appeal only to the spokesperson. Tech

275  
276 (6) The secretary shall determine the manner in which decisions on appeals of group complaints  
277 are issued. Tech

278  
279 (7) The department shall not consider group complaints filed in accordance with this section a  
280 group petition within the meaning of s. DOC 303.20 and shall not subject the complainants to  
281 discipline under that section.

282  
283 DOC 310.11 Processing complaints at the institution level.

284  
285 (1) ICE staff shall collect all complaints. Revised - see detail

286  
287 (2) The ICE shall assign each complaint a file number, classification code, and date for purposes  
288 of identification. The ICE shall review and acknowledge each complaint in writing within 5  
289 working days after the date of receipt by the ICE. NC

290  
291 (3) The ICE shall use discretion in deciding the method best suited to determine the facts,  
292 including personal interviews, telephone calls, and document review, except that the processing  
293 of complaints under s. DOC 310.08 (2) shall be limited to review of the record. The ICE shall  
294 give priority to complaints dealing with health or personal safety. NC

295  
296 (4) The ICE shall direct complaint recommendations to the appropriate reviewing authority. Review

297  
298 (5) The ICE may reject a complaint for the following reasons:

299  
300 (a) The inmate submitted the complaint solely for the purpose of harassing or causing malicious  
301 injury to one or more of the department's employees, agents, independent contractors, or any  
302 other person. Revised  
Self  
ref.  
NC  
proctor

303  
304 (b) The inmate does not raise a significant issue regarding rules, living conditions, or staff  
305 actions affecting institution environment. NC

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- (c) The inmate does not allege sufficient facts upon which redress may be made. *NC*
- (d) The inmate submitted the complaint beyond 14 calendar days from the date of the occurrence giving rise to the complaint and provides no good cause for the ICE to extend the time limits. *new*
- (e) The issue raised in the complaint does not personally affect the inmate. *new*
- (f) The issue is moot. *new*
- (g) The issue has already been addressed through the inmate's prior use of the ICRS. *new*
- (h) The issue raised is not within the scope of the ICRS as defined in 310.08. *new*

(6) An inmate may appeal a rejected complaint within 10 calendar days only to the appropriate reviewing authority who shall only review the basis for the rejection of the complaint. The reviewing authority's decision is final. *new*

(7) If an ICE determines that the procedure under these rules would subject the inmate to substantial risk of personal injury or cause other serious and irreparable harm, the ICE shall refer the complaint to the appropriate reviewing authority. *NIC*

(8) Staff shall respond in writing, if requested, to an inquiry by an ICE investigating a complaint. *NIC*

(9) If an inmate is transferred after an incident but before filing a complaint, the inmate shall file the complaint at the currently assigned institution. The ICE shall forward the complaint to the ICE at the appropriate institution for investigation and decision. *NIC*

(10) The ICE shall note the persons interviewed and the documents used as a basis for the decision. *NIC*

(11) The ICE shall either reject the complaint or send a recommendation to the appropriate reviewing authority within 20 working days from the date of acknowledgment. *change*

*code of rules omitted 15 days now*  
DOC 310.12 Appropriate reviewing authority decision.

(1) The appropriate reviewing authority shall make a decision within 10 working days following receipt of the recommendation. *now 5 days*

(2) The appropriate reviewing authority shall do one of the following:

- (a) Dismiss the complaint;
- (b) Dismiss the complaint with modifications;
- (c) Affirm the complaint;

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- (d) Affirm the complaint with modifications;
- (e) Return the complaint to the ICE for further investigation.

*more 23 days*

(3) If the complainant does not receive the decision within 30 working days after the ICE acknowledges receipt of the complaint under s. DOC 310.11 (2), the complainant may appeal to the CCE.

DOC 310.13 Review by corrections complaint examiner.

(1) A complainant dissatisfied with a reviewing authority decision may, within 10 calendar days after the date of the decision, appeal that decision by filing a written request for review with the corrections complaint examiner on forms supplied for that purpose. The institution shall make these forms accessible to inmates.

*N/C*

(2) Upon good cause, the CCE may accept for review an appeal filed later than 10 calendar days after receipt of the decision.

(3) The CCE shall not review a rejected complaint.

*similar*

(4) The CCE shall, within 5 working days after receiving an appeal, issue a written receipt of the appeal to the inmate.

*Paris less letter*

(5) The CCE shall use discretion in deciding the method best suited to determine the facts, including personal interviews, telephone calls, and document review. The CCE shall have full access to inmates, staff, physical plant, and department records. If an appeal necessitates resolution of disputed issues of fact, the CCE may require sworn statements from the principals. The CCE shall give priority to complaints dealing with health or personal safety.

*sworn Shog*

(6) The CCE shall recommend a decision to the secretary within 35 working days of receipt of the appeal.

*similar less letter*

DOC 310.14 Secretary's decision.

(1) The secretary shall make a decision within 10 working days following receipt of the CCE's recommendation. The secretary may extend the time for making a decision for cause and upon notice to the inmate.

*less district*

(2) The secretary shall do one of the following:

*any sign?*

(a) Accept the recommendation of the CCE and adopt it as the decision;

*N/C*

(b) Adopt the recommendation of the CCE with modifications;

(c) Reject the recommendation of the CCE and make a decision;

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(d) Return the appeal to the CCE for further investigation. *N/C*

(3) If the inmate does not receive the secretary's written decision within 45 working days of the CCE's acknowledgement of receipt of the appeal, the inmate shall consider the administrative remedies to be exhausted, unless the time has been extended under (1). *new*

DOC 310.15 Implementation of affirmed complaint.

(1) The department shall implement an affirmed decision within 30 working days from the date of decision. *why*

(2) If an affirmed complaint has not been implemented within 30 working days, the complainant may directly inform the decision-maker in writing of the failure to implement the decision.

DOC 310.16 Confidentiality.

(1) Except as otherwise provided in this section, the department shall ensure that complaints filed with the inmate complaint review system are confidential. Persons working in the ICRS may reveal the identity of complainants and the nature of the complaint only to the extent necessary to investigate the complaint, implement the remedy, or in response to litigation. *change*

(2) The appropriate reviewing authority may waive confidentiality of a complaint if the security, safety, or health of the institution or any person is involved. *N/C*

(3) A copy of ICRS documents may not be filed in any case file, nor may any notations regarding a complaint be made in those files, except pursuant to s. DOC 310.16 (1) and (2). *text*

(4) A breach of confidentiality in the process may itself be the subject of a complaint. This type of complaint shall be filed directly with the CCE. *N/C*

(5) An inmate waives confidentiality by making known any aspect of a complaint to persons outside the ICRS. *NEW*

(6) The department may not subject an inmate to reprisal for using or participating in the ICRS. An inmate shall be entitled to pursue, through the ICRS, a complaint that a reprisal has occurred. *N/C*

DOC 310.17 Records. *(now 310.18)* omitted - current 310.17 -

(1) The department shall maintain statistics showing the number, type and disposition of complaints. *Reports but semi. by Lin new 310.17*

(2) The department shall keep all records related to an inmate complaint according to its policies and procedures

310.18 Suspension of provisions of this chapter. *HC*

444  
445 The secretary may suspend any provisions of this chapter in an emergency. The secretary may  
446 apply the suspension to one or more institutions. 410  
447  
448

449

450 **SECTION 2. DOC 310 Appendix is repealed and recreated to read:**

451  
1 **Note: DOC 310.01.** DOC 310.01 states the purpose of the inmate complaint review system  
2 (ICRS) and the commitment of the department to the system.

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

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

10

11 **Note: Doc 310.08.** This section establishes the scope and limits of ICRS.

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

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

18

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

22

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

26 Subsection (2) allows the ICE to direct the inmate to attempt to informally resolve the  
27 issue prior to accepting the complaint. This meets the objective of DOC 310.01

28 Subsection (4) underscores the importance of filing a timely complaint. The ICE is given  
29 discretion, however, to accept late complaints for good cause. Promptness in filing a complaint  
30 is required for a thorough investigation of the facts. This is especially true of complaints  
31 involving lost or damaged personal property. Recollections can dim or property can be altered or  
32 destroyed, making investigation difficult or impossible.

33

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

37 The department encourages the use of the complaint system to deal with frustrations and  
38 irritations of institution life, so prohibiting group complaints would be inappropriate. Subsection  
39 (7) makes this clear.  
40

41 **Note: DOC 310.11.** DOC 310.11 establishes the procedure for processing complaints and  
42 sub. (3) authorizes priority handling of complaints dealing with health or personal safety.  
43 Experience has shown some complaints to raise insignificant issues. For example, a complaint  
44 alleging that the institution served creamy peanut butter but the inmate preferred chunky peanut  
45 butter. These complaints take attention away from significant issues.  
46

47 Because inmates are transferred within the Wisconsin correctional system, sub. (9) provides a  
48 method for dealing with complaints arising around the time of the transfer.  
49

50 **Note: DOC 310.12.** This section requires the appropriate reviewing authority's written  
51 decision to be rendered within 25 working days after the complaint is acknowledged. If the  
52 complaint system is to have any value as a method of resolving conflict, decisions must be  
53 rendered quickly. Experience in the ICRS has shown that timeliness is an important factor in the  
54 process.  
55

56 **Note: DOC 310.13.** DOC 310.13 defines the procedure for appealing an adverse decision  
57 to the CCE. This section requires that appeals be filed within 10 calendar days, although the CCE  
58 may accept an appeal filed later for good cause.  
59

60 Appeal to the CCE provides another element deemed essential to a credible complaint  
61 system; namely, a review by someone outside the division of adult institutions chain of  
62 command. CCE's shall give priority to appeals dealing with health and personal safety.  
63

64 **Note: DOC 310.15** Since the purpose of the complaint system is to air grievances and  
65 seek resolutions, decisions resulting in a change in program, policy, or rule interpretation that  
66 affect more than a few inmates, must be promptly implemented.  
67

68 Subsection (2) states that the complainant may notify the decision- maker of failure to  
69 implement a decision within 30 working days. The decision-maker is in a position to ensure that  
70 a decision is implemented promptly.  
71

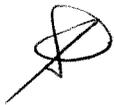
72 **Note: DOC 310.16** If the ICRS is to maintain integrity and the confidence of the inmates,  
73 complaints entered must be treated confidentially and, with certain limited exceptions, no  
74 sanctions can result from the good faith use of the system. The ICRS is an appropriate forum for  
75 resolving staff issues. However, because complaints often identify a staff member as the  
76 perceived perpetrator of some injustice, the complainant must be protected from retribution or  
77 penalty for good faith use of the system.  
78

79 The nature of some complaints is such that a meaningful investigation cannot be made  
80 without revealing the identity of the complainant, but this should be done only when necessary to  
81 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.

82 This is not to say that inmates are free to make threatening or false statements about staff,  
83 knowing they are false, especially if those false statements are made public. There have been  
84 malicious lies about staff corruption and sexual behavior made in the ICRS. This rule does not  
85 prohibit disciplinary action for the bad faith use, or rather abuse, of the ICRS under DOC  
86 303.271.

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

90  
91  
92 **Note: DOC 310.18** Experience has shown that there are rare situations when it is  
93 necessary to suspend these rules. DOC 310.18 permits the secretary to suspend these rules in an  
94 emergency. The rule defines an emergency in s. DOC 310.03(9).  
95

1  
2  **Effective date.** This rule takes effect on \_\_\_\_\_ [as provided in s. 227.22 (2) (intro.),  
3 Stats., \_\_\_\_\_], [pursuant to authority granted by s. 227.22 (2) (a) or (b), Stats.] [as an  
4 emergency rule. Facts constituting the emergency rules are as follows:]

[Use the alternative which fits the particular situation.]

Dated: \_\_\_\_\_ Agency: \_\_\_\_\_  
(signature and title of officer)