

CR 90-1

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CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF CORRECTIONS)

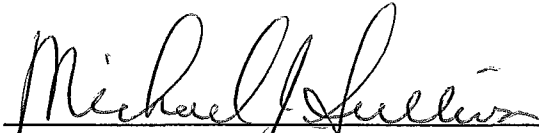
I, Stephen E. Bablitch, Secretary of the Department of Corrections and custodian of the official records of the Department, do hereby certify that the annexed rules relating to the Inmate Complaint Review System were duly approved and adopted by this Department on April 6, 1990.

I further certify that I have compared this copy with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 West Wilson Street, in the City of Madison, this 6th day of April, 1990.

4/6/90

SEAL:



Michael J. Sullivan, Deputy Secretary
for Stephen E. Bablitch, Secretary
Department of Corrections

6-1-90

ORDER OF THE
DEPARTMENT OF CORRECTIONS
REPEALING, RENUMBERING AND AMENDING RULES

To amend HSS 310, relating to inmate complaint review system.

Analysis Prepared by the Department of Corrections

Inmates of adult correctional institutions have their grievances investigated and decided through the Inmate Complaint Review System (ICRS). The Department's rules for operation of the Inmate Complaint Review System are set out in ch. HSS 310. The ICRS is intended to provide for expeditious and orderly handling of grievances, and to develop inmates' sense of respect for the correctional process.

On January 1, 1990, the Department of Health and Social Services' Division of Corrections, which administers the Inmate Complaint Review System, became an independent Department of Corrections. As an independent department its internal organization is different. There is no longer a Division of Corrections, and the Bureau of Adult Institutions is now the Division of Adult Institutions. These organizational changes affect the operation of the Inmate Complaint Review System and need to be reflected in the rules for the ICRS.

In the revised rules "Department" is redefined as the Department of Corrections, "Department" replaces "Division," "Secretary" replaces "Administrator," and the section on appeal to the Secretary of the Department of Health and Social Services is repealed.

Under the current permanent ch. HSS 310, the ICRS has a five step appeals process. One step is an appeal for decision to the administrator of the Division of Corrections. This rulemaking order eliminates that step. The responsibility will not be assigned to the administrator of the new Division of Adult Institutions for two reasons. First, the integrity of that person's involvement could be suspect in the eyes of inmates, because the administrator might be viewed as too intimately involved with the subject matter of a complaint. Inmates might view the appeal to that person as a sham, with the consequence that the inmates' confidence not only in the appeals process but also the correctional process would be weakened. Second, an inmate's complaint will likely be resolved quicker by reducing the process to four steps.

These rule changes will replace identical emergency rule changes which were effective January 1, 1990.

ORDER

The Department's authority to repeal, renumber and amend these rules is found in ss. 227.11(2)(a), 301.02, and 301.03, Stats. The rules interpret ss. 301.02 and 301.03, Stats.

SECTION 1. HSS 310.01(1) is amended to read:

HSS 310.01(1) The policy of the ~~division~~ department of corrections is to afford inmates in adult institutions a process by which grievances may be

expeditiously raised, investigated, and decided. If the decision requires a change in administrative practice, the change shall be implemented.

SECTION 2. HSS 310.015 is amended to read:

HSS 310.015 APPLICABILITY. Pursuant to authority vested in the department of ~~health and social services~~ corrections under ~~s. ss. 301.02, 301.03(2) and 227.11(2), Stats.,~~ the department adopts this chapter which applies to the ~~department, the division of corrections,~~ department and all adult inmates in its legal custody. It interprets ~~s. 46.03~~ ss. 301.02 and 301.03(2), Stats.

SECTION 3. HSS 310.02(1) is amended to read:

HSS 310.02 (1) "AA/CRC officer" or "affirmative action/civil rights compliance officer" means the person in the ~~division~~ department designated by the ~~administrator~~ secretary to monitor and aid in the investigation and resolution of civil rights complaints.

SECTION 4. HSS 310.02(2) is repealed.

SECTION 5. HSS 310.02(3) to (6) are renumbered 310.02(2) to (5), and HSS 310.02(3) and (5), as renumbered, are amended to read:

HSS 310.02(3) "CCE" or "corrections complaint examiner" means the person outside the ~~division~~ department designated to investigate complaints appealed to the ~~administrator.~~ secretary.

(5) "Department" means the Wisconsin department of ~~health and social services~~ corrections.

SECTION 6. HSS 310.02(7) is repealed.

SECTION 7. HSS 310.02(8) to (12) are renumbered 310.02(6) to (10).

SECTION 8. HSS 310.025(5) and (6)(intro.) are amended to read:

HSS 310.025 (5) The corrections complaint examiner then investigates and makes a recommendation to the ~~administrator~~ secretary under s. HSS 310.09(10).

(6) The ~~administrator~~ secretary, under s. HSS 310.10, may:

SECTION 9. HSS 310.025(7) is repealed.

SECTION 10. HSS 310.025(8) is renumbered 310.025(7), and HSS 310.025(7)(intro.), as renumbered, is amended to read:

HSS 310.025(7)(intro.) If an ~~affirmed complaint~~ adopted recommendation is not implemented, the inmate may inform the ~~administrator~~ secretary who shall:

SECTION 11. HSS 310.03(1) and (4) are amended to read:

HSS 310.03 (1) To effectuate the purpose and objectives of s. HSS 310.01, the ~~division~~ department shall maintain an ICRS in the adult correctional institutions.

(4) In investigating a complaint, the ICI shall have access to staff, inmates, and any institution or ~~division~~ department records pertaining to that investigation not otherwise protected by rule or statute.

SECTION 12. HSS 310.04(4) and (5) are amended to read:

HSS 310.04 (4) Complaints regarding inmate health care ~~can~~ may be filed in the ICRS, except that the ~~administrator~~ ICI shall send the ICI's recommendation to the director of the bureau of ~~institution~~ correctional health services in the ~~division of health~~ department of corrections under s. HSS 310.10; on appeal, the CCE's recommendation shall be sent to the ~~administrator of the division of health~~ secretary. ~~An adverse decision may be appealed to the secretary in accordance with s. HSS 310.11.~~

(5) Civil rights complaints may be filed in the ICRS in accordance with the procedures set forth in this chapter. The ICI at the institution level and CCE at the appeals level may request assistance from the ~~division's~~ department's affirmative action/civil rights compliance officer to investigate or resolve a civil rights complaint.

SECTION 13. HSS 310.09(2), (5), (6) and (10) are amended to read:

HSS 310.09 (2) Appeals shall be sent to the CCE in a sealed envelope that ~~division~~ department employees may not open or inspect.

(5) The CCE may use any appropriate investigatory method necessary to make a recommendation to the ~~administrator~~ secretary. The CCE shall have full access to inmates, staff, physical plant, and ~~division~~ department records. If an appeal necessitates resolution of disputed issues of fact, the CCE may require sworn statements from the principals.

(6) The CCE shall be treated as a ~~division~~ department employe for purposes of access to records.

(10) Unless extended for cause and upon notice, the CCE shall recommend a decision to the ~~administrator~~ secretary within 37 calendar days of receipt of the complaint. Should the CCE fail to make a recommendation within the prescribed time, the superintendent's decision shall be affirmed. The inmate shall be notified of all decisions.

SECTION 14. HSS 310.10(title), (1), (2)(intro.) and (3) are amended to read:

HSS 310.10 SECRETARY'S DECISION. (1) The CCE's written recommendation, along with a copy of the institution complaint file, shall be delivered to the ~~division administrator~~ secretary who shall make a decision based on the record within 5 calendar days following receipt of the recommendation. The ~~administrator~~ secretary may take an additional 5 calendar days to make that

decision if there is cause and the ~~administrator~~ secretary notifies all interested parties.

(2) The ~~administrator~~ secretary may:

(3) If no written decision is made by the ~~administrator~~ secretary within the time limit, the findings and recommendation of the CCE shall be deemed to be the ~~administrator's~~ secretary's decision, and the ~~administrator~~ secretary shall promptly advise the parties concerned.

SECTION 15. HSS 310.11 is repealed.

SECTION 16. HSS 310.12(2) and (3) are amended to read:

HSS 310.12 (2) Within 30 calendar days after issuance of the ~~administrator's~~ secretary's decision, the ~~director of the bureau~~ administrator of the department's division of adult institutions shall notify all affected parties of decisions that affect more than one institution.

(3) If an affirmed complaint has not been implemented at any level within 30 calendar days after a decision to affirm, the complainant may directly inform the ~~administrator~~ secretary by mail of the failure to implement the decision. The ~~administrator~~ secretary shall investigate and take all steps necessary to ensure implementation.

SECTION 17. HSS 310.14(1) and (2)(intro.) are amended to read:

HSS 310.14 (1) The ICI shall submit quarterly reports to the ~~administrator~~
~~secretary and CCE~~ to indicate the number and type of complaints processed and
the disposition of the complaints.

(2)(intro.) The CCE shall file an annual report with the attorney general
~~and the secretary, and the administrator.~~ This report shall include:

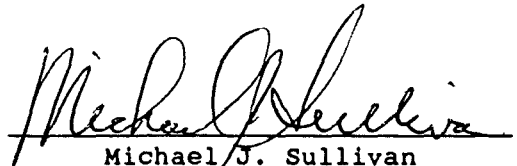
The rules contained in this order shall take effect on the first day of the
month following publication in the Wisconsin Administrative Register as provided
in s. 227.22(2), Stats.

Wisconsin Department of Corrections

Dated:

4/6/90

By:



Michael J. Sullivan
Deputy Secretary, for
Stephen E. Bablitch
Secretary

Seal:

a:\adult\11-29-21P

Tommy G. Thompson
Governor

Stephen E. Bablitch
Secretary



Mailing Address
1 West Wilson Street
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 266-2471

State of Wisconsin Department of Corrections

April 6, 1990

RECEIVED

Mr. Bruce E. Munson
Revisor of Statutes
7th Floor - 30 on the Square
Madison, Wisconsin 53702

APR 10 1990

Revisor of Statutes
Bureau

Dear Mr. Munson:

As provided in s. 227.20, Stats., I am submitting a certified copy of HSS 310, administrative rules relating to the Inmate Complaint Review System.

I am also submitting these rules to the Secretary of State as required by s. 227.20, Stats.

These rules apply to the Department and to inmates of adult correctional institutions. The rules do not directly affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan".

Michael J. Sullivan
Deputy Secretary, for
Stephen E. Bablitch
Secretary

SEB:rgm
4-4-26/Sec

Enclosure