

(e) Determine the method of proceeding and the rules of evidence to be used during the hearing.

(8) Transcription of the proceedings shall be at the discretion of the CCE.

(9) If a hearing is held, the time limits for a recommendation may be extended by written agreement of the complainant and the superintendent.

(10) Unless extended for cause and upon notice, the CCE shall recommend a decision to the administrator within 22 working days. Should the CCE fail to make a recommendation within the prescribed time, the assumption shall be that the superintendent's decision is affirmed. The inmate shall be notified of all decisions.

(11) A complainant may waive time limits if doing so may result in a favorable decision by the administrator rather than an affirmation of the superintendent's decision under sub. (10).

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81.

HSS 310.10 Division administrator's decision. (1) The corrections complaint examiner's (CCE's) written recommendation, along with a copy of the institution complaint file, shall be delivered to the division administrator who shall make a decision based on the record within 10 working days. For cause and upon administrator's notice to all interested parties, an additional 10 working days shall be allowed.

(2) The administrator may:

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

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

(c) Reject the recommendation of the CCE and decide.

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

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81.

HSS 310.11 Departmental review. (1) Any inmate whose appeal to the administrator was denied may, within 15 working days of receipt of the decision, appeal the decision to the secretary of the department.

(2) An appeal filed later than 15 working days of receipt of the administrator's decision may be accepted by the secretary at his or her discretion.

(3) A completed "Request for Departmental Review" form shall be sent to the secretary in a sealed envelope. The secretary shall acknowledge in writing the receipt of the appeal. The administrator, upon request, shall forward the complete complaint file to the secretary.

(4) The secretary shall examine the complete complaint file and may affirm, reverse, or modify the administrator's decision or may return the file to the administrator for additional proceedings, specifying the investigation or action desired.

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(5) (a) If the complaint includes a challenge to a policy, practice, or rule, the secretary may consider additional written or oral information from any person regarding the need or purpose of any policy or practice or rule. The secretary may also consider any publications, books, or other documents considered relevant to the subject of the challenge.

(b) The secretary shall determine the weight to be given to the file, testimony, or other written material and shall summarize briefly in the written decision the material examined and relied on.

(6) Within 15 working days of receipt of the complaint file, the secretary shall determine all issues raised in the appeal and shall set forth in writing the reasons for the decision. If the secretary affirms the decision of the administrator, it shall be sufficient to indicate affirmance and the reason.

If the secretary should fail to reach a decision within the allotted time, the decision of the administrator shall stand and the secretary shall so notify the complainant.

If the issue raised in the complaint can best be dealt with through revising the administrative rules, the secretary shall direct the administrator to undertake rulemaking in accordance with HSS 310.12 (4).

The secretary's decision shall be delivered promptly to all affected persons, including the person requesting the review, the administrator, and the corrections complaint examiner.

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81.

HSS 310.12 Implementation of affirmed complaint. (1) Changes in an institution program or operation affecting the general inmate population and resulting from an affirmed complaint shall be made known through widely distributed written notice within 10 working days of issuance of the decision.

(2) Within 22 working days of issuance of the administrator's decision, the director of the bureau 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 22 working days of a decision to affirm, the complainant may directly inform the administrator by mail. The administrator shall investigate and take all steps necessary to ensure implementation.

(4) If a decision on a complaint requires a change in an administrative rule, the decision maker can initiate rulemaking.

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81.

HSS 310.13 Confidentiality. (1) Complaints filed with the inmate complaint review system (ICRS) shall be confidential. Persons working in the ICRS shall respect the confidential nature of the work. The identity of complainants and the nature of the complaint shall be revealed only to the extent necessary for thorough investigation and implementation of the remedy.

(2) Confidentiality of complaints can be waived by the superintendent if the security of the institution, staff, or inmates is involved.

(3) A copy of material relating to an inmate's written complaint shall not be filed in any case file, nor shall any notations regarding a complaint be made in those files.

(4) A breach of confidentiality in the process may itself be the subject of a complaint. Such complaints shall be filed directly with the CCE.

(5) A complainant may make public any aspect of a complaint at any time.

(6) No sanctions shall result from filing a complaint.

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81.

HSS 310.14 Reports. (1) The corrections complaint examiner (CCE) shall prescribe record-keeping requirements for all persons working in the system.

(2) The inmate complaint investigator (ICI) shall submit quarterly reports to the CCE on forms provided by the CCE to indicate the number and type of complaints processed and the disposition of the complaints.

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

(a) The number and type of complaints processed at each level of the ICRS;

(b) The number of complaints resolved by mediation;

(c) The number of complaints dismissed; and

(d) The number of complaints accepted.

(4) The CCE may include other information or make recommendations concerning the ICRS.

History: Cr. Register, April, 1981, No. 304, eff. 5-1-81.