

May 22, 2018

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-103.005 Informal Grievance

33-103.006 Formal Grievance- Institution or Facility Level

33-103.007 Appeals and Direct Grievances to the Office of the Secretary

33-103.008 Grievances of a Medial Nature

33-103.011 Time Frames for Inmate Grievances

33-103.014 Reasons for Return of Grievance or Appeal Without Processing

33-103.016 Follow Through on Approved Grievances

PURPOSE AND EFFECT: To update the above-referenced rules to comply with what courts refer to as the “mailbox rule;” To clarify how grievances and grievance appeals are collected, dated, and processed; To state timeframes in which inmate grievances must be submitted in order to be considered timely; To establish proper follow-up on approved grievances.

SUBJECT AREA TO BE ADDRESSED: Grievances and Grievance Appeals.

RULEMAKING AUTHORITY: 944.09, F.S.

LAW IMPLEMENTED: 944.09, F.S.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Gregory Hill, 501 South Calhoun Street, Tallahassee, Florida 32399.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-103.005 Informal Grievance.

(1) – (2) No changes.

(3) Upon receipt of the informal grievance, the recipient shall note the date on the form. The institutional

grievance coordinator shall date-stamp Form DC6-236, in the designated area on the form, with the date the grievance was retrieved from the grievance box.

(4) The informal grievance shall be responded to within ~~15~~¹⁰ days of the initial receipt date as noted on the informal grievance log.

(a) The recipient shall provide the inmate with a written response even if an interview with the inmate has occurred concerning the subject matter of the grievance. This is required due to the fact that if the inmate desires to pursue his grievance at the next level, except in cases previously noted, he is required to attach a copy of his informal grievance and response.

(b) The recipient shall state that the grievance is either approved, denied, or returned without action. The response shall also state the reason or reasons for the approval, denial, or return.

(c) The recipient shall then sign and date the form and cause the informal grievance to be returned to the inmate. The inmate shall receive the original and one copy of the informal grievance. The second copy shall be forwarded to the correctional sentence specialist for placement in the inmate's file.

(5) No changes.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 3-30-94, 4-17-94, 4-10-95, 8-10-97, 12-7-97, 2-17-99, Formerly 33-29.005, Amended 8-1-00, 2-9-05, 3-25-08, 1-31-10, 5-27-12, 11-7-12, 11-24-13, 4-20-14, 12-30-14, _____.

33-103.006 Formal Grievance – Institution or Facility Level.

(1) No changes.

(2) Procedural Requirements.

(a) The inmate shall fill out the identifying data at the top of the form, printing his committed name, Department of Corrections number, institution or facility name and checking the appropriate box.

(b) The inmate shall sign and date the form, indicating his Department of Corrections number. If the inmate fails to sign the grievance, it shall result in a delay in addressing the grievance until it can be verified that it is that inmate's grievance.

(c) The inmate shall state his grievance in Part A. If additional space is needed, the inmate shall use attachments rather than multiple copies of Form DC1-303. Only 2 additional pages of narrative will be allowed. If the inmate writes his complaint anywhere other than within the boundaries of Part A or on the 2 allowable attachment pages,

his grievance shall be returned for non-compliance.

(d) The form must be legible and the grievance clearly stated.

(e) Included facts must be accurately stated.

(f) Each grievance must address only one issue or complaint.

(g) The inmate shall attach a copy of the informal grievance and the response to the informal grievance to Form DC1-303, unless the grievance is a direct formal grievance of the following: an emergency grievance; a grievance of reprisal; a medical grievance; a grievance alleging violation of the Americans with Disabilities Act; a grievance involving gain time governed by Rule 33-601.101, F.A.C., Incentive Gain Time; a grievance challenging placement in close management and subsequent reviews; a grievance regarding the return of incoming mail governed by subsection 33-210.101(14), F.A.C.; or a grievance of disciplinary action (excluding corrective consultations). Any other pertinent documentation shall be attached also. Informal grievances as described in subparagraph 33-103.005(2)(b)1., F.A.C., shall not be accepted as documentation of having met the requirements of the informal grievance step.

(h) The inmate shall submit the grievance ~~or appeal~~ to designated staff by placing the grievance ~~or appeal~~ in a locked grievance box. Locked boxes shall be available to inmates in open population and special housing units. A staff person from classification, the grievance coordinator's office, or the assistant warden's office shall be responsible for the key. If the staff member collecting the grievances is from classification or the assistant warden's office, he or she shall retrieve the grievances ~~and appeals~~ and deliver them in a locked container to the institutional grievance coordinator. The institutional grievance coordinator shall log all formal grievances and provide the inmates with receipts. The institutional grievance coordinator shall date-stamp the bottom-left portion of Form DC1-303, reflecting the date the grievance was retrieved from the grievance box. The institutional grievance coordinator shall complete the receipt portion of Form DC1-303 by entering a date of receipt, and shall sign as the recipient. The ~~appeals will be forwarded to the Bureau of Policy Management and Inmate Appeals after being processed for mailing in accordance with paragraphs 33-103.006(8)(b) and (c), F.A.C. The Bureau of Policy Management and Inmate Appeals shall log all appeals and forward receipts to the inmates. The date on the receipt shall be the same date that the grievance was taken out of the grievance box.~~ Grievances ~~and appeals~~ shall be picked up, date-stamped, and otherwise processed ~~forwarded by the institutions~~ daily Monday through Friday.

(i) - (j) No changes.

(3) The following types of grievances may be filed directly with the reviewing authority as defined in subsection 33-103.002(15), F.A.C., by-passing the informal grievance step, and may be placed sent-in a sealed envelope ~~through routine institutional mail channels~~:

(a) – (j) No changes

(4) No changes.

(5) Upon receipt of the formal grievance, the ~~recipient~~ [reviewing authority as defined in paragraph 33-103.002(15), F.A.C.] shall cause the following to occur:

(a) - (d) No changes.

(6) - (7) No changes.

~~(8) Mailing Procedures. The warden or person designated in Rule 33-103.002, F.A.C., shall establish a procedure in the institution or facility under his supervision for processing those grievances that require mailing. Inmates who are filing grievances that require mailing shall be required to utilize the procedure set forth in this rule when processing their grievances or appeals to the reviewing authority of community facilities or the Bureau of Policy Management and Inmate Appeals in central office. The institution or facility shall provide postage for grievances submitted through this process. Procedures implemented shall include, at a minimum, the following:~~

~~(a) The establishment of an office through which grievances shall be processed.~~

~~(b) The establishment of a logging and tracking system to record and document receipt and mailing of inmate grievances.~~

~~(c) A requirement that the staff person designated to accept the grievance to be mailed shall:~~

~~1. Complete the receipt portion of Form DC1-303 for appeals being forwarded to central office by entering a log/tracking number and date of receipt and sign as the recipient.~~

~~2. Record receipt of the grievance in the institutional log. The staff person shall not read or classify the grievance.~~

~~3. Place the grievance in the mail through the institution or facility mail service within one workday.~~

~~(d) The inmate shall have his grievance ready for mailing at the time he turns it over to staff for processing as described in paragraph (c) above. Once this process has been completed, the grievance will not be returned to the inmate. If the inmate desires his grievance to be forwarded in a sealed envelope, the inmate shall provide to the staff a properly addressed envelope so that once the grievance is processed by staff, the grievance can be placed into the~~

~~envelope and sealed for forwarding.~~

~~(e) If the inmate elects to mail the grievance to central office directly and bypass the logging/tracking process, the inmate may submit his or her grievance in a sealed envelope to be placed in the institutional bulk mail that is to be mailed daily to central office.~~

~~(f) Upon receipt of a mailed grievance by the reviewing authority as defined in subsection 33-103.002(15), F.A.C., the following shall occur:~~

~~1. The decision of whether or not the grievance has been timely filed by the inmate shall be made based upon the following comparisons:~~

~~a. In the case of a formal grievance being filed, by comparing the receipt date on Form DC1-303 to the response date of the informal grievance.~~

~~b. In the case of a grievance being filed directly at the institutional level, by comparing the receipt date on Form DC1-303 to the date of the incident or situation giving rise to the complaint.~~

~~2. The receiving office shall review the grievance and determine the classification of the grievance and enter the same on the receipt that is returned to the inmate.~~

~~3. The receiving office shall then process the grievance filed by the inmate in accord with the provisions set forth in Rule 33-103.006 or 33-103.007, F.A.C., as appropriate.~~

~~(8)(9) If an inmate is in a special housing unit and wants to file a grievance, he shall submit the grievance to designated staff by placing the grievance in a locked box. The designated staff person shall deliver the box to the institutional grievance coordinator who will unlock the box, remove the grievances, log the grievances, and provide the inmates with receipts.~~

~~(9) During site visits staff from the Bureau of Policy Management and Inmate Appeals will review video from cameras that monitor those housing units in which inmates rely on a grievance box being brought to them in order for such inmates to submit their grievance. Such housing units include, but are not limited to, disciplinary confinement, close management, maximum management, and death row.~~

(10) No changes.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 5-10-98, 2-17-99, Formerly 33-29.006, Amended 8-1-00, 10-11-00, 2-9-05, 10-28-07, 3-25-08, 5-27-12, 11-7-12, 11-24-13, 4-20-14, _____.

Substantial rewording of Rule 33-103.007 follows. See Florida Administrative Code for present text.

33-103.007 Appeals and Direct Grievances to the Office of the Secretary.

(1) In the event that an inmate feels that the grievance has not been satisfactorily resolved during the formal grievance procedure, an appeal may be submitted according to the time limits set forth in Rule 33-103.011, F.A.C., using Form DC1-303, Request for Administrative Remedy or Appeal, to the Office of the Secretary without interference from staff. Form DC1-303 is incorporated by reference in Rule 33-103.006, F.A.C.

(2) Grievance appeals – If the grievance appeal is not a direct grievance to the Office of the Secretary, the inmate shall:

(a) Attach a copy of his formal grievance and response, except when appealing issues regarding requests for protective management, admissible reading material, sentence structure (release date calculations), inmate banking, emergencies or allegations of reprisal. (These may be filed directly to the Office of the Secretary).

(b) Attach a copy of his informal grievance and response, except when appealing issues regarding medical, Americans with Disabilities Act, gain time governed by Rule 33-601.101, F.A.C. Incentive Gain Time, placement in close management and subsequent reviews, return of incoming mail governed by subsection 33-210.101(14), F.A.C., disciplinary action (does not include corrective consultations) governed by Rule 33-601.314, F.A.C.

(c) Attach any other documentation that the inmate has that is pertinent to the review and that the inmate wants reviewed. Attachments as required by the rule that do not meet the requirements of this rule may result in the grievance being returned to the inmate.

(d) Submit the complete form with attachments to the Office of the Secretary in accordance with subsection 33-103.006(8), F.A.C. Failure to submit a complete grievance shall result in the grievance being returned to the inmate without action.

(e) If the inmate is filing an amendment to a previously filed grievance or appeal, the inmate shall clearly state this at the beginning of PART A of Form DC1-303, Request for Administrative Remedy or Appeal.

(3) Direct Grievances.

(a) Emergency grievances and grievances of reprisals, protective management, admissible reading material, grievances concerning sentence structure (release date calculations), inmate banking issues or sexual abuse grievances when the abuse is alleged to have been committed by the Warden of the institution where the inmate is currently housed may be filed directly with the Office of the Secretary using the Request for Administrative Remedy

or Appeal, Form DC1-303. Grievances alleging a violation of the Health Insurance Portability and Accountability Act (HIPAA) must be filed directly with the Office of the Secretary using the Request for Administrative Remedy or Appeal, Form DC1-303. The following shall apply:

1. The inmate shall state at the beginning of Part A of Form DC1-303 that the grievance concerns either an emergency or is a grievance of a reprisal. When alleging HIPAA violations, the inmate shall state that the grievance concerns HIPAA at the beginning of Part A of Form DC1-303. The inmate or the third party filer of a sexual abuse grievance shall state at the beginning of Part A of Form DC1-303 that the grievance is a sexual abuse related grievance. On Form DC1-303 the third party filer shall check the box next to Third Party Grievance Alleging Sexual Abuse.

2. The inmate must clearly state the reason for not initially bringing the complaint to the attention of institutional staff and by-passing the informal and formal grievance steps of the institution or facility, except in the case of a HIPAA violation grievance which must be filed directly with the Office of the Secretary. In the case of a sexual abuse grievance, the inmate or the third party filer must clearly state that the formal grievance step of the institution or facility was by-passed because the abuse is alleged to have been committed by the Warden of the institution where the inmate is currently housed.

3. The inmate may forward grievances of these types to the Office of the Secretary in a sealed envelope by following the procedure set out in paragraph (5)(d), below. When a direct grievance alleging violation of HIPAA is received at the Office of the Secretary, the Bureau of Policy Management and Inmate Appeals shall forward the grievance to the Office of the Assistant Secretary for Health Services for investigation and response. The disclosure of medical information in a grievance authorizes staff to review the information and to use and disclose the medical information necessary to investigate in order to respond. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the Bureau of Policy Management and Inmate Appeals to ensure appropriate filing and routing.

(b) Emergency Grievances. An emergency grievance may be filed directly with the Secretary. Upon receipt, staff of the Bureau of Policy Management and Inmate Appeals shall take the following actions as soon as possible, but no later than two calendar days following receipt:

1. Review complaint and contact staff for additional information if necessary;
2. If an emergency is found to exist, initiate action to alleviate the condition giving rise to the emergency;

3. Provide a formal response to the inmate within 15 calendar days; and

4. If an emergency is not found to exist, it will be clearly marked on the grievance “not an emergency,” signed and dated by the responding employee, and returned to the inmate within three working days of receipt as his reasons for by-passing the previous level of review will not be valid.

5. An inmate may file an emergency grievance if they believe they are subject to a substantial risk of imminent sexual abuse. When receiving an emergency grievance from an inmate expressing belief they are subject to a substantial risk of imminent sexual abuse the institution must take immediate corrective action. Staff handling this grievance shall provide an immediate response within 48 hours and shall issue a final decision within 5 calendar days from the receipt of the grievance. The final decision will document the agency’s determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(c) Grievances filed directly with the Office of the Secretary that are grievances of reprisal, protective management, admissible reading material, sentence structure (release date calculations), inmate banking issues, or a grievance alleging a violation of HIPAA shall be responded to according to established time frames.

(d) Upon receipt of the direct grievance and following review of the same, if it is determined that the grievance is not an emergency grievance, a grievance of reprisal, protective management, admissible reading material, sentence structure (release date calculations), inmate banking issues, or a grievance alleging a violation of HIPAA, the grievance shall be returned to the inmate with the reasons for return specified advising the inmate to resubmit his or her grievance at the appropriate level. The other applicable procedures in Rule 33-103.007, F.A.C., governing the processing of appeals to the Office of the Secretary shall apply to these types of grievances.

(4) Procedural Requirements.

(a) The inmate shall fill out the identifying data at the top of the form by printing his committed name, Department of Corrections number, and institution or facility name and shall check the appropriate box.

(b) The inmate shall state his grievance in Part A. If additional space is needed, the inmate shall use attachments rather than multiple copies of Form DC1-303. Only 2 additional pages of narrative will be allowed. If the inmate writes his complaint anywhere other than within the boundaries of Part A Box or on the 2 allowable attachment pages, his grievance or appeal shall be returned for non-compliance.

(c) The inmate shall sign and date the form, indicating his Department of Corrections number. If the inmate fails to sign the grievance or appeal, it shall result in a delay in addressing the grievance until it can be verified that it is

that inmate's grievance or appeal.

(d) The form shall be legible and the grievance or appeal shall be clearly stated.

(e) Included facts shall be accurately stated.

(f) Each grievance or appeal shall address only one issue or complaint.

(g) When filing a grievance appeal, the inmate shall attach a copy of the formal grievance and the response to the formal grievance to Form DC1-303. Any other pertinent documentation shall also be attached.

(h) If the inmate is filing an amendment to a previously filed grievance or appeal, the inmate shall clearly state this at the beginning of PART A of Form DC1-303, Request for Administrative Remedy or Appeal. Amendments are to be filed only regarding issues unknown or unavailable to the inmate at the time of filing the original grievance and must be submitted within a reasonable time frame of knowledge of the new information.

(i) If the inmate or third party is filing a grievance involving sexual abuse, it shall be clearly stated in the first line of the grievance that it is a grievance related to sexual abuse. Also on Form DC1-303 the third party filer shall check the box next to Third Party Grievance Alleging Sexual Abuse. If this statement is not included in the grievance and if the third party box is not checked, the grievance shall be responded to. This will not be a reason to return the grievance without action to the filer.

(j) The inmate shall submit the grievance or appeal to designated staff by placing it in a locked grievance box. Locked boxes shall be available to absolutely all inmates. A staff person from classification, the grievance coordinator's office, or the assistant warden's office shall be responsible for the key. If the staff member collecting the grievances or appeals is from classification or the assistant warden's office, he or she shall retrieve the box and deliver it to the institutional grievance coordinator.

(k) Grievances and appeals shall be picked up and forwarded to central office by the institutions daily, Monday through Friday. This includes grievances and appeals filed by inmates in special housing units. The grievance box shall be brought to each such inmate Monday through Friday.

(5) Mailing Procedures. The warden or person designated in Rule 33-103.002, F.A.C., shall establish a procedure in the institution or facility under his supervision for processing those grievances and appeals that require mailing. Inmates who are filing grievances or appeals that require mailing shall be required to utilize the procedure set forth in this rule when sending their grievances or appeals to the Bureau of Policy Management and Inmate Appeals in central office. The institution or facility shall provide postage for grievances or appeals submitted

through this process. Procedures implemented shall include, at a minimum, the following:

(a) The establishment of an office through which grievances and appeals shall be processed.

(b) The establishment of a logging and tracking system to record and document receipt and mailing of inmate grievances and appeals.

(c) A requirement that the staff person designated to accept the grievances and appeals to be mailed shall do the following as to those grievances that are not in a sealed envelope and are placed in the grievance box:

1. For each grievance appeal or direct grievance to the Office of the Secretary, date-stamp the bottom-left portion of the form DC1-303, reflecting the date the grievance or appeal was received or collected from the grievance box.

2. Complete the receipt portion of Form DC1-303 for grievances or appeals being forwarded to central office by entering a logging/tracking number and date of receipt, and shall sign as the recipient.

3. The staff person shall not read or classify the grievance or appeal.

4. Place the grievance or appeal in the mail through the institution or facility mail service within one workday.

(d) Inmates shall have his or her grievance or appeal ready for mailing at the time he or she submits it to staff for processing as described in paragraph (c) above. Once this process has been completed, the grievance or appeal will not be returned to the inmate.

(e) Inmates are also permitted to elect to submit grievances and appeals in sealed envelopes. The inmate must note on the envelope that the content is either an appeal or a direct grievance to the Secretary of the Department. Such a sealed envelope may be placed in the locked grievance box, just as a grievance or appeal that is not in a sealed envelope would be. Such grievances shall be processed as follows by institutional staff:

1. The staff member who retrieves grievances and appeals submitted in this manner from the grievance box shall place a date stamp on the outside of the envelope. The date shall be the same date that the grievance or appeal was retrieved from the grievance box.

2. The staff member who retrieves the sealed envelopes from the grievance box shall not place a logging/tracking number on the envelope nor on the grievance or appeal. Institutional staff shall not open the sealed envelope, except when they have reason to believe it contains contraband.

3. No institutional staff person shall read or classify the grievance or appeal.

4. The institutional staff member designated to accept and mail the grievances shall place the grievance or

appeal in the mail through the institution or facility mail service within one workday.

(f) Those grievances and appeals that are placed in the grievance box, whether or not they are in a sealed envelope, will be forwarded to the Bureau of Policy Management and Inmate Appeals after being processed for mailing as described above.

(g) Inmates are also permitted to place their grievances and appeals in a sealed envelope with adequate postage and place that sealed envelope into the locked grievance box.

1. The inmate must note on the envelope that the content is either an appeal or a direct grievance to the Secretary of the Department.

2. The inmate shall place the appeal or direct grievance into the locked grievance box.

3. The mail collection representative shall not open the mail nor ask nor order the inmate open it.

4. The individual processing the appeals and direct grievances shall date-stamp the back of the envelope.

5. The sealed envelope shall not be returned to the inmate's possession.

6. No inmate shall present any other mail in a sealed envelope.

7. The envelope containing the appeal or direct file grievance shall be processed as routine mail pursuant to 33-210.101, F.A.C.

(6) Processing of Grievance Appeals and Direct Grievances by Central Office Staff.

(a) Upon receipt of a mailed grievance or appeal by the Bureau of Policy Management and Inmate Appeals, the Bureau of Policy Management and Inmate Appeals shall cause the following to occur:

1. The grievance or appeal shall be examined for compliance with Chapter 33-103, F.A.C.

2. Regarding any grievance or appeal that arrives in a sealed envelope, the envelope shall be opened and then attached to the grievance or appeal. The envelope shall not be discarded.

3. Staff shall date the receipt portion of the grievance or appeal. For those grievance that were placed in the grievance box by the inmate, the date on the receipt shall be the same date that the grievance or appeal was taken out of the grievance box, whether or not the grievance is in a sealed envelope. As to any grievance or appeal that was placed directly into privileged mail by an inmate, the date on the receipt shall be the same date placed on the back of the envelope at the moment when the inmate released the grievance or appeal to the mail collection representative. . . This date shall be placed in the lower left hand corner of the form.

4. The receiving office shall review the grievance or appeal and determine the classification of the grievance or

appeal and enter the same on the receipt that is returned to the inmate. The subject matter of the grievance shall be indicated on the receipt according to the classification of the grievance, as specified in Rule 33-103.013, F.A.C. A receipt shall be provided to the inmate.

5. In addition to dating the receipt portion of the grievance or appeal, as mentioned above, staff shall date-stamp the grievance or appeal with the current day's date in the upper right corner of the form.

6. Staff shall determine whether the grievance or appeal has been timely filed. The decision of whether or not the grievance or appeal has been timely filed by the inmate shall be made based upon the following comparisons:

(a) In the case of an appeal being filed with the central office, by comparing the receipt date that institutional staff placed on the DC1-303 form or the outside of the envelope in accordance with rule 33-103.007(3)(d), F.A.C., to the return date of the formal grievance (the date the grievance leaves the recipient's office).

(b) In the case of a grievance being filed directly at the central office level, by comparing the receipt date on the DC1-303 form to the date of the incident or situation giving rise to the complaint.

7. The receiving office shall then process the grievance or appeal filed by the inmate in accord with the provisions of this rule, as appropriate.

8. A grievance appeal or direct grievance may be returned to the inmate for any one or more of the reasons stated in Rule 33-103.014, F.A.C., without further processing.

9. Following appropriate investigation and evaluation by staff of the Bureau of Policy Management and Inmate Appeals, a response shall be provided to the inmate. The degree of investigation is determined by the complexity of the issue and the content of the grievance.

10. The response shall state whether the appeal or direct grievance is approved, denied, or being returned and shall also state the reasons for the approval, denial, or return. The criteria considered in approving, denying, or returning an appeal or direct grievance will vary with the facts of the grievance.

(7) The Office of the Secretary has designated the Bureau of Policy Management and Inmate Appeals to receive, review, investigate, evaluate and respond to appeals and direct grievances filed with the Office of the Secretary. Appeals and direct grievances to the Office of the Secretary shall be turned over that same date to the Bureau of Policy Management and Inmate Appeals which shall ensure that the grievance is date-stamped in on the date of receipt.

(8) If the grievance or appeal is returned to the institution or facility for further investigation or response, the

inmate may, following receipt of that response, re-file with the Office of the Secretary pursuant to Rule 33-103.007, F.A.C., if he is not satisfied with the response.

(9) Copies.

(a) The original copy of the grievance or appeal shall be returned to the inmate. The response shall be stamped “MAILED/FILED WITH AGENCY CLERK” along with the date mailed; the response shall be mailed on the same date that it is stamped. The response is deemed filed with the agency clerk on the date that it is stamped and mailed. The time period for appeal begins to run on the date that the response is stamped and mailed.

(b) One copy shall be forwarded to the Regional Scanning Center for inclusion in the inmate’s electronic central office file.

(c) Attachments are considered a part of the grievance and shall not be returned to the inmate, except in those cases where the inmate submits sufficient copies of attachments at the time the grievance appeal is filed.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 8-10-97, 12-7-97, 10-7-98, 2-17-99, Formerly 33-29.007, Amended 8-1-00, 6-29-03, 2-9-05, 8-21-06, 3-25-08, 6-13-12, 11-7-12, 11-24-13, 4-20-14,_____.

33-103.008 Grievances of Medical Nature.

(1) If a formal grievance of a medical nature is filed at the institutional level, it shall be forwarded to the institution’s Chief Health Officer or clinical designee for investigation and response. Following preparation of a response and signature of the responding employee, the grievance shall be returned to the warden or assistant warden or deputy warden to ensure appropriate filing and routing. The review and initialing of the grievance response shall be made by the Chief Health Officer or clinical designee. A clinical designee is a physician with an active Florida license and who is credentialed by the Department of Corrections, or, if the physician is a Department of Corrections contractor’s employee, is credentialed by the contractor. licensed and credentialed by the Department of Corrections or an approved health care contractor who is designated by the Chief Health Officer to investigate, review and respond to grievances of a medical nature. Other procedures applicable to the processing of a formal grievance of a medical nature are as stated in Rule 33-103.006, F.A.C.

(2) No changes.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.008, Amended 6-29-03, 2-9-05, 3-25-08, 5-27-12, 6-23-13,_____.

33-103.011 Time Frames for Inmate Grievances.

When determining the time frames for grievances in all cases, the specified time frame shall commence on the day following the date of the incident or response to the grievance at the previous level. For example, if an incident occurred on December 1, fifteen days from that date would be December 16.

(1) Filing of Grievances.

(a) Informal Grievances – Must be received within 20 days of when the incident or action being grieved occurred unless the inmate has requested in writing and received approval for a 45 day extension to file an informal grievance about being physically restrained during pregnancy, labor or post-partum recovery pursuant to Rule 33-602.211, F.A.C. The request for an extension must be submitted on Form DC6-236, Inmate Request, and received within 20 days of the application of restraints. However, there may be instances when an inmate places his or her grievance or extension request into the grievance box on the 20th day after the date of the alleged incident, but after the grievances were retrieved from the box for that day. Therefore, even when an inmate grievance or extension request is retrieved from a grievance box on the 21st day after the incident and dated accordingly, it shall be treated as timely—that is, as being submitted within the 20-day timeframe—in order to ensure the inmate is afforded the entirety of their 20-day filing timeframe. Similarly, the grievance of an inmate who was granted the above-described 45-day extension is retrieved from the grievance box on the 66th day and dated accordingly by Department staff, it shall be treated as timely—that is, as filed within the 65-day filing timeframe.

(b) Formal Grievances – Must be received no later than 15 calendar days from:

1. The date on which the informal grievance was responded to; or
2. The date on which the incident or action being grieved occurred if an informal grievance was not filed pursuant to the circumstances specified in subsection 33-103.006(3), F.A.C., unless the grievance is an issue related to sexual abuse. However, there may be instances when an inmate places his or her grievance into the grievance box on the 15th day after the date of such response or such alleged incident/action but after the grievance box were retrieved for that day. Therefore, even when a formal grievance is retrieved from a grievance box on the 16th day after the response or incident/action of the type here in question and dated accordingly, it shall be treated as timely—that is, as being submitted within the 15-day timeframe—in order to ensure the inmate is afforded the entirety of their 15-day filing timeframe.

3 Pursuant to sub-subparagraph 33-103.006(3)(j)1.a., F.A.C., and notwithstanding the above provisions, sexual

abuse grievances filed either by the inmate or a third party may be filed at any time after the incident is alleged to have occurred. After the initial filing, all other applicable timeframes shall apply.

(c) Grievance Appeals to the Office of the Secretary – Must be received within 15 calendar days from the date the response to the formal grievance is returned to the inmate. However, there may be instances when an inmate places his or her appeal into the grievance box on the 15th day after the date of the response to his or her formal grievance but after the grievance box was emptied for that day. Therefore, even when a grievance appeal is retrieved from a grievance box on the 16th day after the response and dated accordingly, it shall be treated as timely—that is, as being submitted within the 15-day timeframe—in order to ensure the inmate is afforded the entirety of their 15-day filing timeframe. To be clear, and notwithstanding what the preceding sentence says as to grievance appeals that are placed into the grievance box, a grievance appeal placed directly into privileged mail by an inmate shall not be treated as timely if the day on which the inmate gave the grievance to the mail collection representative, as indicated by the date-stamp on the back of the envelope in which the grievance appeal is sealed, is 16 or more calendar days from the date the response to the formal grievance is returned to the inmate.

(d) Direct Grievances to the Office of the Secretary – Must be received within 15 calendar days from the date on which the incident or action which is the subject of the grievance occurred. However, there may be instances when an inmate places his or her grievance into the grievance box on the 15th day after the date on which the incident or action which is the subject of the grievance occurred but after the grievance box was emptied for that day. Therefore, even when a direct grievance is retrieved from a grievance box on the 16th day after the response and dated accordingly, it shall be treated as timely—that is, as being submitted within the 15-day timeframe—in order to ensure the inmate is afforded the entirety of their 15-day filing timeframe. To be clear, and notwithstanding what the preceding sentence says as to direct grievances that are placed into the grievance box, a direct grievance placed directly into privileged mail by an inmate shall not be treated as timely if the day on which the inmate gave the grievance to the mail collection representative, as indicated by the date-stamp on the back of the envelope in which the grievance appeal is sealed, is 16 or more calendar days from the date on which the incident or action which is the subject of the grievance occurred.

(2) An extension of the above-stated time periods shall be granted when it is clearly demonstrated by the inmate to the satisfaction of the reviewing authority as defined in paragraphs 33-103.002(15)(14)(b) and (c), F.A.C., or the Secretary that it was not feasible to file the grievance within the relevant time periods and that the inmate made a

good faith effort to file in a timely manner. The granting of such an extension shall apply to the filing of an original grievance or when re-filing a grievance after correcting one or more deficiencies cited in Rule 33-103.014, F.A.C.

(3) Responding to Grievances.

(a) Informal Grievances – Following the initial receipt of an informal grievance, a written response shall be completed within ~~1540~~ calendar days. See Rule 33-103.005, F.A.C.

(b) Formal Grievances – The reviewing authority as defined in paragraph 33-103.002~~(15)(14)~~(b), F.A.C., shall have up to 20 calendar days from the date of receipt of the grievance to take action and respond. See Rule 33-103.006, F.A.C.

(c) – (e) No changes.

(4) – (5) No changes.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, Formerly 33-29.011, Amended 2-9-05, 3-25-08, 5-27-12, 11-7-12, 11-24-13, 4-20-14,_____.

33-103.014 Reasons for Return of Grievance or Appeal Without Processing.

(1) The informal grievance, formal grievance, direct grievance, or grievance appeal, hereafter referred to as “grievance,” may be returned to the inmate without further processing if, following a review of the grievance, one or more of the following conditions are found to exist. The reasons listed below are the only reasons for returning a grievance without a response on the merits.

(a) - (m) No changes.

(n) The inmate is grieving a matter beyond the control of the Department as described in subsection 33-103.001~~(5)(4)~~, F.A.C.

(o) - (x) No changes.

(y) The inmate submitted the grievance by placing it somewhere other than inside the grievance box.

(2) An inmate who has a grievance returned to him for reasons stated in subsection (1) above [excluding paragraphs (1)(d), (e), (h), (i), (m), (n), (p), (q), (r), (u), (v) or (w)] may refile utilizing the proper procedure or correct the stated deficiency and refile, but only if:

(a) the refiled grievance is refiled within the applicable time frame, or

(b) the inmate was granted permission to refile outside of the applicable time frame, and refiles within the

~~extended time frame granted to the inmate. within the times frame upon receipt of this notification the filing is within time frames allowable.~~ When a grievance is returned to an inmate for being improperly filed, the inmate shall be told why the grievance was returned and told that in order to receive administrative review of his complaint he must correct the defects and re-submit the grievance within the time frames set forth in Rule 33-103.011, F.A.C., unless instructed otherwise in the grievance response. Instructions to resubmit are not necessary if a grievance is returned for reasons stated in paragraphs (1)(d), (e), (h), (i), (m), (n), (p), (q), (r), (u), (v) or (w).

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 10-12-89, Amended 1-15-92, 12-22-92, 4-10-95, 12-7-97, 5-10-98, Formerly 33-29.014, Amended 6-29-03, 2-9-05, 6-13-12, 11-7-12, 11-24-13,_____.

33-103.016 Follow Through on Approved Grievances.

(1) No changes.

(2) Appeals and direct grievances to the Office of the Secretary. All grievances that are approved by the Bureau of Policy Management and Inmate Appeals shall be handled as follows:

(a) - (f) No changes.

(g) In the event that the corrective action is taken prior to the response to the grievance or appeal and before the need to complete Form DC1-306, it is not necessary to complete the form.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 4-10-95, Amended 12-7-97, Formerly 33-29.0155, Amended 8-1-00, 1-1-01, 8-21-06, 3-25-08, 6-13-12, 11-7-12, _____.