Exhibit 2

AFFIDAVIT

THE STATE OF **TEXAS** §

COUNTY OF **WALKER** §

BEFORE ME, the undersigned authority, on this day personally appeared Frances Gattis, who, being by me duly sworn, deposed as follows:

My name is Frances Gattis, and I am a Deputy Division Director of the Administrative Review and Risk Management Division of the Texas Department of Criminal Justice (TDCJ), a governmental agency. My duties include overseeing the management of the Offender Grievance department. I am executing this affidavit as part of my assigned duties and responsibilities. I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

I am the custodian of record of the *Offender Grievance Operations Manual (OGOM),* which includes, among other things, the TDCJ offender grievance procedures and instructions for offenders on how to write and submit grievances. Attached is a true and correct copy of the *OGOM including the appendices.* The *OGOM* is maintained in the regular course of business by the TDCJ.

I declare under penalty of perjury that the foregoing is true and correct.

"Further Affiant sayeth not."

Frances Gattis

Frances Gattis
Deputy Division Director
Administrative Review and Risk Management
Texas Department of Criminal Justice

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned notary public, on the 15th day of April, 2020.

Kara Elaine Coffey

NOTARY PUBLIC, STATE OF TEXAS

KARA ELAINE COFFEY
Notary Public-State of Texas
Notary ID #12877829-6
Commission Exp. OCT. 19, 2023
Notary without Bond

Kara Elaine Coffey
Notary's Printed Name

My Commission Expires:
10/19/23

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

ADMINISTRATIVE REVIEW
&
RISK MANAGEMENT

DIVISION

Offender Grievance Operations Manual

(Revised 09/14)

OFFENDER GRIEVANCE OPERATIONS MANUAL
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INTRODUCTION

An effective grievance program extends far beyond the staff of the grievance department. It involves an ongoing commitment to solving problems by each staff member at every unit. One sign of a well-managed correctional facility is the sensitivity of staff to the problems and complaints of offenders under their care. A large portion of complaints being resolved at the lowest level characterizes an effective grievance mechanism.

The grievance program provides a variety of supportive and protective functions. It gives offenders an alternative to confrontation, thereby increasing facility safety and decreasing offender aggression. The program offers the offender a less formal alternative to litigation, thus saving taxpayers the cost of defending the agency in court. Grievances, when taken collectively, provide a wealth of insight into the daily operations of the unit. Grievances are self-monitoring tools, which help reduce the need for external monitoring, such as the judicial oversight, which the Texas Department of Criminal Justice (TDCJ) has experienced in the past.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
ADMINISTRATIVE REVIEW AND RISK MANAGEMENT DIVISION
OFFENDER GRIEVANCE PROGRAM

MISSION: To promote awareness and positive intervention between staff and offenders to identify and resolve issues at the lowest possible level, and to facilitate the flow of information between the units and agency leaders.

PHILOSOPHY: Provide a means for identifying issues and facilitating corrective action, thereby contributing to a safer environment for staff and offenders.

Afford offenders a formal mechanism for review and redress of pertinent issues, and ensure them fair and timely decisions.

Provide agency administrators with current information for direct interaction and proactive planning.

GOALS: Ensure the quality of the Offender Grievance Program.

Ensure offenders utilizing the program receive a timely evaluation and resolution by the appropriate reviewing authorities.

Assess the productivity of the grievance process and procedures.

CONFIDENTIALITY (Rev. 6/2015)

The operation of the Offender Grievance Procedure is a sensitive process. Constant vigilance is required to protect the integrity and effectiveness of the program. The unit grievance investigator (UGI) is entrusted with knowledge of, and access to, grievance documents and information that may only be shared with authorized staff with a clearly defined need to know. Except for this provision, the UGI shall ensure that all grievances and related documentation are kept strictly confidential. The identity of grievant and the nature of complaints are revealed only to the extent reasonable and necessary for a thorough investigation and resolution. Unit grievance staff are defined as UGI, alternate UGIs, and grievance clerks.

Access to locked grievance boxes is restricted to the unit grievance staff and warden.

Unit grievance staff shall collect grievances from offenders who cannot access these boxes for example, when a unit is on lockdown or offenders are housed in administrative segregation.

Grievances, related materials or any other notation regarding a complaint shall not be placed in any file other than the grievance file, unless otherwise noted in this procedure manual. If an offender files a grievance that pertains to a loss of property, or loss of money as a result of legitimate transactions, a reference may be included in his institutional record describing the resolution of the matter. This reference may not give any indication that a grievance was filed.

The UGI will provide staff assisting in the resolution of a grievance only that information necessary to facilitate their involvement.

The UGI will share with the warden any and all pertinent information that may impact the safety and security of the unit.

Grievance investigations and supporting documentation are protected and not available to the offender, or the public through open records. The UGI should seek guidance from the administrator of Offender Grievance if a subpoena or any other request for grievances, or grievance related documents is received.

A grievant is entitled to a written response; however, investigative notes, reports, or written testimony from staff and other offenders should not be provided to the grievant.

Original grievance forms or copies of grievances may not be removed from the grievance office, except for approval and signature by the warden.

Disciplinary action against staff will not be disclosed through the grievance process. Investigations regarding allegations of misconduct or reprisal by staff is privileged information and will not be revealed to the grievant. Documents related to employee disciplinary action such as, employee performance log entries, a letter of instruction or employee disciplinary forms shall not be attached to an offender grievance.

Employee participation in the resolution of grievances is confidential, yet essential to the resolution of problems.

Unit grievance staff and Central Grievance Office (CGO) staff will fold completed Step 1 and Step 2 grievances in a manner that the response and grievance text are not visible, and then tape the grievance to ensure the confidentiality of the document.

The Offender Grievance Program and the Mail System Coordinators Panel (MSCP) will coordinate procedures to ensure the confidentiality of grievance responses is maintained.

Offender Grievance
Summary of Changes September 2014

Note: The OGOM has been completely reorganized

Summary of significant changes:

- **Revised**: Table of Contents

- **Added:** (1.01.I.B.) Offender must have direct access to unit grievance staff without routing grievances through any other staff member. Security staff are not authorized to collect grievances in the collection boxes unless serving as alternate grievance staff.

- **Revised:** (1.02.I.A.2) Screening Criteria #2 Submission in Excess of 1 every 7 days; **Emergency grievances and grievances regarding disciplinary appeals are exempt.**

- **Added:** (1.03.I.D) Code 020 Lethal Injection issues. Shall be processed under the same guidelines as an emergency grievance with an exception for time limits and reporting to the administration. (1.03.II.f.ii) Grievances coded 020 shall be forwarded to the Central Grievance Office for response. **Screening criteria does not apply to miscellaneous grievances.**

- **Added:** (1.03.II.2.A.B): The Warden and Major will be notified for **ALL** emergency grievances.

    - (1.03.A.II.C) Classification and Safe Prisons/PREA Compliance staff will be notified for the following codes: (000, 003, 005, 007, 008, 009, 010, and 014). Code **003** will only be sent to classification if the issue in the grievance involves ***(threats of suicide)***.

    - (1.03.A.II.D) The Office of the Inspector General (OIG) will be notified for the following codes: (008, 009, 011, 012, 016, 017 and 019).

    - (1.03.A.II.E) Medical will be notified for code 003.

- **Added:** (1.03.IV.D) The Emergency checklist (Appendix I) may be used to identify repetitive emergency grievances; which are grievances that have been previously identified and/or addressed in another grievance. Utilizing the Emergency Checklist, staff shall determine if the issue presented is repetitive in nature by referencing the previous grievance. Grievances that are repetitive in nature or have been previously identified and/or addressed in another grievance will not be considered an emergency grievance and will be processed as a regular grievance. If at any time the person completing the checklist cannot determine if the grievance is in fact repetitive in nature, the grievance will immediately be processed as an emergency grievance according to the guidelines established in the OGOM

Revised: (1.04) Code 005 was changed from impermissible offender conduct and privilege issues to:

- **005 code to "Voyeurism".**

- **Added:** (1.04.I.2): The Major will have 5 calendar days of notification to respond to the email with the action taken in regards to the claims.

- **Added:** (1.04) PREA codes;
  - 005 Voyeurism
  - 016 Third Party Allegations of Sexual Abuse by another offender
  - 017 Third Party Allegations of Sexual Abuse by a staff member
  - 018 the alleged victim declines to file a grievance as a result of a third party complaint
  - 019 the alleged victim agrees to file a grievance as a result of a third party complaint.

Note: allegations of third party sexual harassment will not be addressed

- **Deleted:** Emergency code 001 (Appendix D)

- **Removed:** The term **"Specialty Grievances"** has been removed. The following grievance codes are no longer considered "specialty" grievances and shall be processed as **regular grievances** subject to all screening criteria.

  - Religion codes (100, 101, 102, 104 and 112)
  - Medical codes (607 thru 680)
  - Legal codes (700 thru713)
  - Staff Complaints codes (800, 801, 802, 803, 804, 805, 806 and 811)
  - Grievance Staff/Procedure codes (903, 904 and 910)

- **Revised:** (1.08.I.B): All step 1 **disciplinary appeals** shall be processed within **40** days of receipt from offender.

- **Revised:** (1.10) language changed from "OTI" (Other Transferred Grievance) to "TG" (Transferred Grievance)

- **Added:** (3.00) Resolution Codes (Appendix V)

- **Revised:** (7.00.I.A.1) OIG Referrals Issue codes 002 *(physical contact or assault by staff **NOT** reported through the UOF procedure)*, 800, 801, 802, 005, 008, 009, 011, 012, 013, 803, 804 and 805 should all be coordinated with the OIG.

- **Added:** (7.00.II.1-7) OIG Referrals *Grievances that do not describe a reported use of force* that was excessive or unnecessary do not warrant any further action and shall be considered **not grievable**. Attach a copy of (Appendix C).

- **Added:** (7.00.I.C.3) *Documented UOF Excessive or unnecessary* (codes: 800, 801 and 802) shall be forwarded to the unit warden or designee to be reviewed during the Employee Use of Force Fact Finding Inquiry.

- **Revised:** Appendix J to Appendix J-1 for Step 1 and Appendix J-2 for Step 2

- **Revised:** Appendix C, Non-Grievable Issues

    - **Removed** section that pertains to receiving screened step 2 grievances from an offender.
    - **Added** section pertaining to grievances involving reported uses of force.

- **Revised:** Appendix D, Issue Codes.

    - **Deleted** code (212)
    - **Added** code (400); Due Process and Procedural Rights Violations
    - **Deleted** codes (005, 401, 402, 404, 405, 406, 408, 409, 412, 413, 414, 415, 416, 418, 419, 421, 422, 423)
    - **Revised** code (800)

- **Revised:** Appendix H;

    - **Removed** signature box
    - **Added** Continuation Statement Page

- **Revised:** Appendix M to reflect new time frames

- **Revised:** Appendix N, revised form to reflect numbering and enlargement

- **Revised:** Appendix P was changed from a (Use of Force routing sheet) to a Definitions section.

- **Added:** Appendix U; Third Party Preliminary Investigation

- **Added:** Appendix V; Resolution Codes

Note: Once the revised OGOM is implemented, we will begin to code grievances with only one issue code per grievance. At that time, the issue code fields will be restricted as needed and the GR00 will also be updated to automatically calculate the correct due dates.

SUBJECT: Step 1 Grievances

PURPOSE: To establish procedures and guidelines for processing Step 1 grievances.

PROCEDURES:
Unit grievance staff, to include grievance investigators, alternate investigators, and grievance clerical staff, shall collect grievances each workday except mandatory training days, from grievance boxes located throughout the unit. Grievances may be receive directly from offenders.

I. Collection of Grievances

A. The location of grievance boxes shall be accessible to offenders and locked. Access to locked grievance boxes is restricted to the unit grievance staff and warden.

B. Offenders must have direct access to unit grievance staff without routing grievances through any other staff member. Security officers are not authorized to collect grievances in the collection boxes unless serving as alternate grievance staff. Grievance boxes may be placed in any of the following locations, as appropriate:

1. Main hallway;
2. Adjacent to dining hall entry door, commissary, or shower;
3. Inside or adjacent to each housing area;
4. Any other area accessible to offenders and approved in writing by the administrator of Offender Grievances.

C. Grievances shall be collected in the same manner for the offenders confined to administrative segregation, solitary confinement, or on lockdown status, to ensure that each offender is afforded unimpeded access to the offender Grievance Procedure.

II. Sorting and Prioritizing

A. After the grievance collection, grievance staff shall immediately review grievances for **emergency** issues and those identified as such shall be given **immediate attention.** Emergency grievances are exempt from all screening criteria. Grievance staff shall then determine the appropriate issue code that identifies the offender's complaint using ***Appendix-D (Issue Codes).***

B. Grievance staff shall complete the "Office Use Only" sections of the I-127 grievance form ***(Appendix F)***; grievance #, date received, date due, grievance code, investigator ID #, extension date, date returned to offender.

C. Grievances that do not qualify as an emergency or warrant special consideration may be screened. The unit grievance staff shall screen grievances and return to an offender unprocessed with the appropriate screening criteria marked on the back of the form, and the "Office Use Only" box completed. Screened grievances will not have a printed response. A copy of all screened grievances shall be retained in the offender's grievance file.

D. Grievance staff shall make every effort to identify the offender for grievances received without an offender's name, number, or signature.

E. Grievance staff shall place the grievance in a **Dead File** with written justification stating why the issue was not addressed when the **offender cannot be identified**.

F. Grievances submitted written in pencil shall be copied and the copy shall be utilized as an original grievance. Grievance staff shall write and highlight "Accepted as Original" at the top of the new original. The grievance written in pencil shall be added to the completed investigative documentation.

G. During an interview or investigation if offender states that he did not submit a grievance, the UGI shall acquire an offender statement on the OG-O1 (Appendix H), Continuation Statement, attach a statement to the grievance, and file both forms in the offender's grievance file. **Emergency related issues shall require a copy of the OG-01 statement from the Safe Prisons Sergeant or above indicating the result of the investigation**. Additional steps (handwriting samples, additional interviews, and Security Threat Group or Safe Prison/PREA Compliance inquiries) may be taken to ensure the offender was not coerced into recanting or denying the grievance submission. The UGI shall send a TDCJ email to the administrator and assistant administrator requesting that the grievance be administratively closed. The following information shall also be forwarded by fax:

Please administratively close the following grievance:

Grievance to be administratively closed: 20XXXXXXXX
Unit, Offender name and TDCJ #.

A copy of the offender's signed written statement on Appendix H.

H. Unit supervisory staff and department heads shall actively participate in the investigation and resolution of Step 1 grievance issues as they apply to their respective area of responsibility.

III. Grievances That Qualify For Processing

A. All grievances must be entered into the GR00 Case Tracking System and assigned to an investigative analyst on the date received.

B. The UGI shall enter grievance information into GR00 Tracking system:

1. The subject line shall be a brief description of the subject of the grievance, e.g. staff name. The information contained in the subject line shall not be redundant of the issue code.

2. Line #1 of the comment section shall be a brief description of the allegation; e.g. "threw offender's book on the floor." Line #2 shall be a brief summary of the grievance. Reserve line #3 for Step 2 use.

C. The GR00 Case Tracking System shall be updated at each stage of the grievance process. When errors are identified, the UGI is authorized to correct 'data entry' errors, but must include a justification statement in the comment section. When closing a grievance the date entered will be the date the data entry was made. ***Backdating any record is unacceptable.***

D. Grievances created in error, such as an incorrect TDCJ# entered, must be reported to the Central Grievance Office via email. The email shall include the reason for the deletion, the offender name, TDCJ#, the incorrect grievance number, and the corrected grievance number. No additional information is to be added to the GR00 comment section for that grievance record after the deletion has been requested. The following email format shall be used when requesting deletion of a record:

Please delete the following grievance that was entered in error:

Grievance to be deleted: 20XXXXXXXX
Unit, Offender name and TDCJ #

Correct Grievance: 20XXXXXXXX
Unit, Offender name and TDCJ#

IV. Grievance Investigation

A. Unit grievance staff shall complete the OFFICE USE ONLY box on the OG-01 (***Appendix-H***) worksheet and forward it to the appropriate department head for investigation, suggested response, and signature on the worksheet.

B. Unit grievance staff shall make a copy of only the narrative portion of the grievance and provide it to the department head if it is not possible to accurately summarize the grievance.

C. Staff involved in the subject matter presented in the grievance are ***not*** to investigate or provide resolution of the grievance, to include the signature authority.

D. Unit grievance staff shall ensure that the OG-01, including a recommended response, signature, and all investigative notes are completed and returned within ten working days. Additional time may be requested by contacting the unit grievance staff; however, the 40 day time limit still applies.

1. The 'Employee Statement" and "Supervisor Comment' sections shall be completed, signed and dated.

E. Unit grievance staff shall review staff statements for quality and appropriateness before formulating a response and forwarding to the warden for a signature.

F. Completed grievance investigations shall be forwarded to the signature authority for signature. The appropriate signature authority shall sign all grievances before returning to the offender.

V. Signature Authority

A. The signature authority for Step 1 grievances is the warden, assistant warden, health services administrator, unit practice manager, director of nursing, or nurse administrator, as appropriate.

B. In the event that the signature authority is the subject of an offender's grievance, the appropriate regional director or medical supervisor, shall be the signature authority. The mere mention of a signature authority in a grievance does not preclude that person from signing the grievance.

C. Grievance staff shall be responsible for notifying the warden of any information that may impact the safety and security of the unit.

D. The administrator for Offender Grievances reserves the right to authorize the processing of any grievance regardless of screening criteria.

VI. Final Step 1 processing

A. A copy of the Step 1 grievance and all investigative documentation shall be maintained in a file folder labeled with the offender's name and TDCJ number.

B. Grievance staff shall fold and tape completed Step 1 grievances that are being returned to offenders in a manner that the response and grievance text are not visible.

C. Grievance staff shall review the TDCJ mainframe computer screens to determine an offender's current housing location and correct the housing location on the grievance form if the offender has moved.

D. Grievances for offenders, who have transferred to another unit, shall be forwarded to the offender's current unit of assignment. The UGI that forwards the completed grievance the UGI at the offender's current unit of assignment. The 'Date Retd to Offender' section is completed by the UGI on the offender's current unit of assignment when the grievance is returned to the offender.

E. Completed grievances for offenders who have discharged from TDCJ, shall be maintained in the offenders' inactive grievance file. If the offender provided a forwarding address to Grievance staff, the grievance may be mailed to address provided.

F. The folded grievances shall be delivered to the unit mailroom for distribution to the offenders.

VII. Reprisals

A. Reprisal, to include harassment or retaliation, for participation in the Offender Grievance Procedure is a serious matter that is considered a violation of an offender's access to courts rights.

B. Evidence of reprisals must be forwarded to the Office of the Inspector General in accordance with the guidelines included in this manual under section ***7.00 Office of the Inspector General Referrals***.

C. An offender shall not receive a disciplinary case for a grievance submitted in bad faith.

SUBJECT: Step1 Grievance Screening

PURPOSE: To establish procedures and guidelines for screening Step 1 Grievances.

PROCEDURES:
Offender grievances that do not qualify for processing utilizing the definition of the screening criteria may be returned to the offender unprocessed. Screened grievances do not require investigation, response, or an approving signature.

I. Screening Criteria

All grievance staff is expected to apply good correctional practice and exercise sound judgment when applying the screening criteria. If any level of uncertainty exists concerning the applicability of screening criteria, **grievance staff should err on the side of caution,** and process the grievance.

A. Listed below are the screening criteria that may be applied. Each applicable criterion must be checked and the grievance entered into the GR00 before returning to the offender unprocessed. When multiple screening criteria exist, criterion 1, 8, & 9 shall not be used in combination with screening criteria eligible for correction and resubmission.
Note: The criterion with an asterisk (*) are eligible for correction and resubmission.

1. **Grievance time period has expired.**
Offenders have 15 days to file a grievance, beginning from the date of the alleged incident or when the offender should have knowledge of the incident. When a grievance is returned to an offender unprocessed, the offender is afforded 15 days from the date of return to resubmit any correctable Step 1 grievance. Grievances will be accepted for review up to and including the first working day beyond the 15 day time limit, whether at the initial submission or resubmission of the grievance. Grievances received after that time may be returned to the offender unprocessed and they are not eligible for correction.
Note: When calculating the 15 day time limit, consideration must be given for the number of days grievances were not collected, such as holidays that fall during the workweek or weekends. Grievances received after that time may be returned to the offender unprocessed.

2. **Submission in excess of 1 every 7 days. ***
Emergency grievances, medical grievances and grievances regarding disciplinary appeals are exempt. Only one Step 1 grievance may be processed every seven days, based on the date of the last processed Step 1 grievance entered in the GR00 Case Tracking System. The 1 in 7 criteria may be determined by reviewing the GR00 Screen 18. Unprocessed grievances, such as those ending in "99", are not counted when determining the one in seven criteria. Grievances submitted in excess of one every seven days may be returned to the offender unprocessed. Begin calculating the 7 day time period on the date the grievance is picked up.

3. **Original not submitted. ***
Offender grievances must be submitted in original form. Carbon copies are not considered original documents; even if the original signature is documented on the signature line. Every effort will be made to make grievance forms available to all offenders; however, any document in original form, identifiable as a grievance, will be considered for processing. Grievances that are not signed by the offender, or when an offender writes a name on the grievance other than his name of commitment such as, a Muslim name or an alias, the grievance may be returned unprocessed.

4. **Inappropriate/excessive attachments.** *
Offenders must state the nature of the grievance **on a single grievance form** in the space provided. Agency documents such as answered sick call request forms, answered I-60's, inventories, and receipts which substantiate or further prove the offender's allegations should be accepted and the grievance processed. Unofficial documents, continuation pages, informal legal-like documents, petitions, unanswered I-60's or sick call requests, and drawings will not be accepted. Items such as insects, food particles, or similar items will not be accepted as attachments. Grievances submitted with excessive or inappropriate attachments may be returned to the offender unprocessed.

5. **No documented attempt at informal resolution.** *
Offenders must document an attempt to informally resolve the issue prior to filing a Step 1 grievance. Any documented attempt noted in the appropriate space of the grievance form will fulfill this requirement. The method or appropriateness of the attempt will not be scrutinized. Offenders may contact medical staff regarding non-emergent medical concerns by submitting an I-60 Request to Official. Offender grievances that do not include a documented attempt at an informal resolution may be returned to the offender unprocessed.

   NOTE: Informal resolution is not appropriate for grievances involving disciplinary appeals.

6. **No requested relief is stated.** *
Offenders must document a request for action to resolve the claim in the space provided on the grievance form. The requested relief often provides valuable information and is helpful to unit grievance staff when assigning an issue code to the grievance. If the offender fails to include a request for relief, the grievance may be returned to the offender unprocessed.

7. **Malicious use of vulgar, indecent, or physically threatening language directed at an individual.** *Grievances that contain blatant or malicious use of vulgar, indecent, or physically threatening language directed **at any individual** may be returned to the offender unprocessed. Threats of physical harm to staff should be reported to unit officials. The administrator for Offender Grievances must be contacted prior to using a grievance as the basis for a disciplinary case.

8. **The issue presented is not grievable.**
Offender grievances regarding issues that are not grievable, as specified in AD-03.82, "Management of Offender Grievances", and may be returned to the offender unprocessed.

   a. State and federal court decisions, as well as laws and regulations.

   b. Parole decisions.

   c. Time served credit disputes.

   d. Matters for which other formal appeal mechanisms exist. For example, correspondence rules provide a separate mechanism for appealing the rejection of correspondence, publications, negative mailing list and other similar documents utilizing the Director's Review Committee.

   e. Any matter beyond the control of the agency.

Claims regarding time served credit disputes or decisions by the Director's Review Committee (DRC) are not considered grievable. Unit grievance staff shall attach the Non-Grievable Issues form (Appendix C) directing the offender to the appropriate department. A grievance regarding the requirement to gather DNA samples is not grievable. ***Grievances involving a reported use of force with allegations that do not describe the incident as excessive or unnecessary are not grievable.***

9. **Redundant Issue.**
This screening criterion may be used to manage offenders who continue to file grievances on issues already addressed in a previous grievance. When this criterion is used, the previous grievance number must be documented in the space provided on the back of the Step 1 grievance form, as well as entered into the GR00 designated field.

10. **Illegible/incomprehensible.***
Offender grievances that are illegible or incomprehensible may be returned to the offender unprocessed. If this criterion is continually utilized for the same offender, the grievance investigator will interview the offender to ensure the offender knows how to submit a grievance and there are no issues being missed that should be addressed.

11. **Inappropriate***

    a. Grievances requesting disciplinary action against an employee, such as a reprimand, termination, counseling, or disciplinary action.

    b. Request for compensation as a result of consequential or punitive damages returned to the offender unprocessed.

II. Grievances that do <u>not</u> qualify for processing

A. Unit grievance staff shall date stamp the grievance form at the end of the narrative, as well as any section the offender has left blank, such as, no documented attempt at informal resolution; no requested relief stated; or no signature included.

B. Unit grievance staff will check the appropriate box indicating all applicable screening criteria on the back of the I-127 grievance form. In the OFFICE USE ONLY box record the screening criteria applied, **"99"** code used, the date the grievance was received and returned to the offender, and the Unit grievance staff initials. Unit grievance staff will print and sign their name on the signature line provided.

C. Grievances screened for the following may not be corrected and resubmitted at Step 1:

- #1 grievable time period has expired
- #8 the issue presented is not grievable
- #9 Redundant of another grievance

D. The screened grievance is entered into the GR00 using one of the **"99"** issue codes. Unit grievance staff shall enter the subject of the grievance in the GR00 subject line. A brief summary of the grievance shall be entered on line #2 in the comment section, and the screening criteria in the designated field. Up to three criterions may be entered in the designated field.

E. Unprocessed grievances are closed with an **"H"** outcome code on the same date received. When unit grievance staff enters the issue code ending in **"99"**; the GR00 automatically enters the dates and closes the grievance with an **"H"** outcome code. However, if unit grievance staff enters a different issue code other than one ending in **"99"** and then realizes it is eligible to be screened, The Unit grievance staff shall have to manually enter all date fields, as well as the **"H"** outcome code into GR00.

F. The Step 1 record for unprocessed grievances should never be edited or deleted, except as required by the TDCJ Records Retention Schedule, data entry errors refer to OGOM 1.01.D . Offenders will have 15 days from the date the grievance is screened to correct and resubmit the original grievance for processing.

G. Grievances returned to offenders unprocessed will not count when considering the one every seven days screening criteria.

H. A copy of the unprocessed grievance shall be placed in the offender's grievance file and the original returned to the offender.

Note: Generally, comments written on returned grievances are discouraged; however, simple guidance may be useful to assist the offender when correcting and resubmitting the grievance. Unit grievance staff should be mindful if the comment includes more than a few words of simple guidance, the grievance should be processed as a regular grievance, to include investigation, response, and a signature by the warden.

III. Screening Documentation

A. When screening grievances, unit grievance staff shall complete the 'OFFICE USE ONLY' section on the back of the grievance form. A resubmitted screened grievance that is ***not corrected*** shall not be re-entered into the GR00 case tracking system for a new number. Unit grievance staff shall fill in the '2nd Submission' section using the previous grievance number and screening criteria.

B. When the offender re-submits a screened grievance with corrections for the original error, and the grievance has to be screened again with a new screening criteria, the unit grievance staff shall obtain ***a new grievance number*** from the GR00 case tracking system. The unit grievance staff shall complete the '2nd Submission' section with the new grievance number and screening criteria.

C. If an offender fails to correct the grievance and resubmits it a third time, the UGI should interview the offender to ensure he knows how to submit the grievance correctly. A copy of the Instructions on How To Write and Submit Grievances should be provided.

D. If an offender fails to correct the grievance and resubmits it a fourth time, the UGI will attach documentation of the interview to the original grievance and place both in the offender's grievance file.

SUBJECT: Step 1 Emergency Grievances – **Non PREA Allegations**

PURPOSE: To establish procedures and guidelines for processing Step 1 emergency grievances.

PROCEDURES:

An emergency grievance is a written complaint about matters that would subject an offender to a substantial risk of personal injury or cause other serious or irreparable harm. Emergency grievances are not eligible for screening or extension. See the note below for exceptions. Emergency grievances require **immediate written notification** to the appropriate authority for initiating an investigation. Investigations are to be completed and returned to the grievance investigator within ten days to ensure the grievance process is completed within the required 40 day time limit.

I. Types of Emergency Grievances

A. Allegations of Physical Harm or Assault

- **(000) Allegations of physical harm from another offender** – physical contact has occurred

- **(002) Allegations of staff conduct that places an offender in danger** – physical contact or assault by staff of an offender not reported with the use of force procedure

- **(007) Allegations of extortion** Obtaining currency, property, or demanding the performance of an action by coercion, violence, or threat of violence to include sexual favors commissary items or trust fund deposits

B. Medical Emergencies

- **(003) Allegations of a medical emergency** - threats of suicide, chest pains, or difficulty breathing

C. Miscellaneous Emergency Grievances

- **(004) Allegations involving ADA (American Disabilities Act) issues**

- **(006) Allegations of discrimination based on gender or nationality**

- **(020) Allegations involving lethal injection issues**

D. Allegations of Verbal Threats of Physical Harm

- **(014) Allegations of verbal threats of physical harm from another offender**

- **(015) Allegations of verbal threats of physical harm from staff**

D. Allegations of Sexual Assault, Abuse, Harassment, Voyeurism

- See OGOM 1.04 PREA Allegations
- See OGOM 9.00 Third Party Grievance Procedures

II. Unit Grievance Staff Initial Response and Notification

A. For emergency grievance codes unit grievance staff shall:

1. Immediately telephone the highest ranking security supervisor on duty of the grievance allegations.

2. Notify via TDCJ Mainframe email of the grievance allegations to:

a. Unit Wardens (All emergency related allegations) to include code 013.

b. Unit Majors (All emergency related allegations) to include code 013.

c. Chief of unit classification and Safe Prisons/PREA Compliance staff for codes:

i. ***000, 007, 014***

ii. ***003*** **(only suicide related issues)**

d. OIG for codes:

i. ***002***

e. Medical department for code:

i. ***003***

3. The email shall list each recipient. Do not use mail lists.

B. The unit administration shall provide a completed Offender Protection Investigation (OPI) or Administrative Investigation within ten days of notification.

III. Processing

A. Copy the grievance narrative and provide it to a security supervisor as soon as possible.

B. A copy of the email listing the recipients, and the major's statement, from the Administrative Investigation, shall be attached to the grievance. The unit grievance staff shall complete the OFFICE USE ONLY section of the OG-01 investigation worksheet, and immediately forward a copy of the narrative portion of the grievance and the worksheet to the warden or designee. The warden or designee shall review and investigate the grievance; document all investigative activity; and return the completed worksheet and all documents to the unit grievance staff, directing the unit grievance staff of how to proceed.

C. Grievance staff shall formulate a response for the complaint and send for the warden's review and signature once the investigation is completed.

IV. Emergency Checklist (Appendix I)

A. The emergency checklist shall be used as an efficient tool to identify emergency issues. The checklist includes six questions that may be applied to any grievance that could present an emergency situation. The Checklist should be applied by the unit grievance staff prior to coding and logging the grievance in the GR00. Keep in mind that an emergency may not be stated, but may instead be implied or described in the grievance. If the person completing the checklist answers YES to any of the six questions, the grievance shall immediately be processed as an emergency in accordance with guidelines established in the *TDCJ Safe Prisons Plan*.

B. The grievance should be coded in a way that best describes the complaint, and should be processed as a regular grievance subject to all the screening criteria when all questions are answered NO on the emergency checklist. In the event a grievance is unprocessed after the checklist has been applied, a copy of the unprocessed grievance and the original emergency checklist will be attached to the grievance investigation, and maintained in the offender's grievance file. If the emergency checklist was applied after the grievance was coded an emergency, the issue code may be revised, but only after a note is made in the comment section of the GR00 to justify the change.

C. The checklist may be applied to any grievance when an emergency claim is not clear. For those grievances involving emergency claims that are obvious or clearly stated, the grievance should be processed and the checklist is not required. Once the checklist is applied and it is still unclear, the UGI should err on the side of caution and process the grievance as an emergency.

D. Grievance staff shall determine if the issue presented has been previously addressed in another grievance. When a grievance with emergency allegations is identified as repetitive, grievance staff shall utilize the Emergency Checklist (Appendix I), and the grievance shall be coded and processed as a regular grievance. If at any time the person completing the checklist cannot determine whether the grievance is in fact repetitive in nature, the grievance will immediately be coded and processed as an emergency grievance according to the guidelines established in the OGOM.

SUBJECT: PREA Allegations

PURPOSE: To establish procedures and guidelines for initial response, notification, and processing of offender grievances alleging a sexual abuse/harassment incident. All grievances received with allegations of sexual abuse/harassment shall be reported in accordance with the ***"Safe Prisons/PREA Compliance Plan"***.

DEFINITIONS:

ALLEGATIONS OF SEXUAL ABUSE BY ANOTHER OFFENDER

An allegation of sexual abuse of an offender by another offender, which includes any of the following acts if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent to refuse:

- ***(008) ALLEGATIONS OF SEXUAL ABUSE BY ANOTHER OFFENDER***
  (Includes contact between the penis and vulva or the penis and anus of another offender, including Penetration, however slight; contact between the mouth and penis, vulva, or anus; penetration of the anal or genital opening of another offender, however slight, by a hand, finger, object, or other instrument if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse).

- ***(009) ALLEGATIONS OF SEXUAL CONTACT BY ANOTHER OFFENDER (Fondling)***
  (Any intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner-thigh or the buttocks of another offender, excluding contact incidental to a physical altercation).

- ***(016) THIRD PARTY ALLEGATIONS OF SEXUAL ABUSE BY ANOTHER OFFENDER***
  A third party grievance received from a fellow offender, or non-incarcerated third party (e.g. staff members, family members, attorneys, and outside advocates) on behalf of an alleged victim that include allegations of sexual abuse, assault or contact by offender

ALLEGATIONS OF SEXUAL ABUSE BY STAFF

An allegation of sexual abuse of an offender, detainee, or resident by a staff member, contractor, or volunteer, which includes any of the following acts, with or without the consent of the offender, detainee, or resident:

- ***(011) ALLEGATIONS OF SEXUAL ABUSE BY STAFF***
  (Includes contact between the penis and the vulva or the penis and anus, including penetration, however slight; contact between the mouth and the penis, vulva, or anus; contact between the mouth and any body part where the staff member, employee, volunteer, contract employee, official visitor, or agency representative has the intent to abuse, arouse, or gratify sexual desire with or without consent of the offender; and any display by a staff member, employee, volunteer, contract employee, official visitor, or agency representative of his or her uncovered genitalia, buttocks, or breast in the presence of an offender).

- ***(012) ALLEGATIONSOF SEXUAL CONTACT BY STAFF (Fondling)***
  (Any other intentional contact either directly through the clothing, of or with the genitalia, anus, groin, breast, inner-thigh or the buttocks, that is unrelated to official duties or where the staff member, employee, volunteer, contract employee, official visitor, or agency representative has the intent to abuse, arouse, or gratify sexual desire).

- ***(017) THIRD PARTY ALLEGATIONS OF SEXUAL ABUSE BY STAFF***
  A third party grievance received from a fellow offender, or non-incarcerated third party (e.g. staff members, family members, attorneys, and outside advocates) on behalf of an alleged victim that include allegations of sexual abuse, assault or contact by staff.

ALLEGATIONS OF SEXUAL HARASSMENT

- ***(005) "VOYEURISM"***
  (An invasion of privacy of an offender, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an offender who is using a toilet in his or her cell to perform bodily functions; requiring an offender to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an offender's naked body or of an offender performing bodily functions). ***(Send to OIG if evidence supports allegations).***

- ***(010) ALLEGATIONS OF OFFENDER SEXUAL HARASSMENT/ NON-CONTACT SEXUAL ABUSE*** *(Unwelcome sexual advances, requests for sexual favors or Verbal comments, gestures or actions of a derogatory or offensive sexual nature by on one offender directed toward another offender.* ***(Send to OIG if evidence supports allegations).***

- ***(013) ALLEGATIONS OF STAFF SEXUAL HARASSMENT / NON-CONTACT SEXUAL ABUSE***
  (Sexual Harassment includes-Verbal statements, comments of a sexual nature; demeaning references to gender, derogatory comments about body or clothing; or gestures to an offender. Non-Contact Sexual Abuse is any attempt, threat, or request to engage in sexual abuse or sexual contact, by a staff member, employee, volunteer, contract employee, official visitor, or agency representative) ***(Send to OIG if evidence supports allegations).***

PROCEDURES:
Grievance staff shall read and code sexual abuse/harassment grievances based on definitions and the nature of the incident presented. All sexual abuse/harassment grievances shall be reported in accordance with the ***Safe Prisons /PREA Compliance Plan***. The following steps shall be utilized when reporting sexual abuse/harassment incidents reported through the grievance process.

I. Unit Grievance Staff Initial Response and Notification

A. Immediately telephone the highest ranking security supervisor on duty to notify them of all PREA related allegations: ***(005,007,008,009,010,011,012,013,016,017,019)***

B. Notify all unit wardens, majors, Safe Prisons/PREA Compliance staff, and medical department via TDCJ Mainframe email of the grievance allegations (***005,007,008,009,010,016,017,019)***

For issue codes (***007,008,009,010,016,017,019***) add chief of unit classification to the email routing.

For issue codes (***007,008,009,011,016,017,019***) add OIG to the email routing.
****(005,010,013)* Notify OIG **Only IF** any evidence is discovered to support the allegations.

For issue codes: ***(007,008,009,011,012,016,017,019)*** add Medical to the email routing.

1. The email shall list each recipient. Do not use email lists.

2. Unit administration ***(Major)*** has five calendar days after notification to respond to the email with the action taken in regards to the claims.

3. The unit administration shall provide a completed Offender Protection Investigation (OPI) or Administrative Investigation within ten days of notification.

II. Processing

A. Make a copy of the grievance narrative and provide to the security supervisor as soon as possible.

B. A copy of the email, listing the recipients and the major's statement shall be attached to the grievance as investigative documentation.

C. Grievance staff shall formulate a response for the complaint upon receiving the completed investigation and send for the warden's signature.

III. Third Party Grievance Processing (Also see OGOM 9.00 Third Party Grievance Procedures)

A. A third party grievance received from a fellow offender, on behalf of an alleged victim that includes allegations of sexual abuse; sexual assault or sexual contact shall be processed as indicated above in section I.A-B.

B. Notifications received from a non-incarcerated third party (e.g. staff members, family members, attorneys, and outside advocates) relating to allegations of sexual abuse; sexual assault or sexual contact shall be immediately forwarded to the (PREA) Prison Rape Elimination Act Ombudsman department.

1. The grievances submitted by a third party shall be coded as follows:

   - **016** allegations of sexual abuse by another offender
   - **017** allegations of sexual abuse by a staff member

2. Unit grievance staff shall provide the alleged offender victim with the Appendix U form to agree or disagree with the allegations and to have the request processed on his or her behalf.

3. The alleged offender victim's decision to disagree with the request to be processed on his or her behalf shall be entered into the GR00 with the grievance number entered on the Appendix U form and placed in the offender file. The grievance shall be coded:

   - **018** the alleged victim declines to file a grievance as a result of a third party complaint

4. The alleged offender victim's decision to agree with the request shall require the alleged victim to complete an I-127 Offender Grievance Form for processing. The grievance shall be coded:

   - **019** the alleged victim agrees to file a grievance as a result of a third party complaint
   - **Reminder: In addition to the (019) issue code, a secondary code will be used to identify the PREA allegation. This is the only time a secondary code will be used on a grievance.**

C. Offenders and third parties may not submit a grievance on behalf of an offender that does not meet the criteria of ***sexual abuse, assault, or contact.***

NUMBER: OGOM 1.05 Regular Grievances
DATE: SEPTEMBER 2014
PAGE: 1 of 1

SUBJECT: Regular Grievances

PURPOSE: To establish specific guidelines for the management of regular grievances.

PROCEDURES:
Grievances other than those categorized as emergency or disciplinary shall be processed as regular grievances, **subject to all screening criteria**. The unit grievance staff shall be responsible for investigating or coordinating the investigation of regular Step 1 grievances.

I. Processing Regular Step 1 Grievances

A. Unit grievance staff shall complete the OFFICE USE ONLY box on the OG-01 worksheet and forward it to the appropriate department head for investigation, a suggested response, and signature on the worksheet.

B. Unit grievance staff shall make a copy of only the narrative portion of the grievance and provide it to the department head if it is not possible to accurately summarize the grievance.

C. Unit grievance staff shall ensure that the OG-01, including a recommended response, signature, and all investigative notes are returned within ten working days. Additional time may be requested by contacting the unit grievance staff; however, the 40 day time limit still applies.

D. Unit grievance staff shall review staff statements for quality and appropriateness before formulating a response and forwarding to the warden for a signature.

SUBJECT: Staff Use of Slurs or Hostile Epithets

PURPOSE: To establish procedures and guidelines for processing grievance allegations of staff use of slurs and hostile epithets.

PROCEDURES:
Grievances determined to involve allegations of staff use of slurs and hostile epithets shall be processed in accordance with the following guidelines and PD-22 (14b).

I. Allegations

A. Grievance staff shall use issue code 811 on grievances that involve staff use of slurs or hostile epithets.

B. Grievances alleging a staff member used slurs or hostile epithets **and** the offender does not state whether any other staff members were present, the unit grievance staff shall interview the offender as to the location of where the alleged incident occurred. If there were only offenders in the area, then acquire a written statement from the staff alleged in the complaint. If the staff member states the incident did not occur, then the grievance **is not** referred. If the staff member states the incident occurred, the grievance **is** referred.

C. The unit grievance investigation shall stop when the staff witness states the incident occurred. The grievance and witness statement shall be referred.

D. The Staff Use of Slurs or Epithets Referral form (Appendix R) shall be completed and forwarded to the warden for referral to the appropriate department. A completed and signed referral form shall be attached to all offender grievances that are referred.

E. Employee information is confidential. Therefore, employee related information regarding a referral such as an intake number, or any related documents are not to be attached to an offender grievance in order to maintain confidentiality.

F. Provide the following response on grievances that are referred to the appropriate department:
"The issue regarding staff use of slurs or hostile epithets was referred to the appropriate Agency Official for investigation."

II. Referrals

A. Grievances and staff statements are referred to the Human Resources Employee Relations Intake Department for TDCJ employees only, when an employee admits to, or a witness states, that they heard another employee use slurs or hostile epithets.

B. Contract staff referrals are made as follows: Private Facility Contract Monitoring and Oversight Division (PFCMOD) for private facilities and treatment staff, the Office of Professional Standards for medical staff, and the Windham School District General Counsel's Office for Windham staff.

III. Outcome Codes

A. Outcome Code **"O"**, Referred to Employee Relations for Investigation, shall be used when:

1. A grievance is referred regarding staff use of slurs or hostile epithets.

SUBJECT: Step 1 Property Grievances

PURPOSE: To establish procedures and guidelines for processing step 1 property claims.

DEFINITIONS:

Property is defined as any item authorized by TDCJ policy for possession by an offender, to include a Trust Fund account.

Contraband is defined as any item which an offender is prohibited to possess or obtain while in custody, unless the offender received the item as a result of a state or federal court order or legitimately through the litigation process.

PROCEDURES:
When a grievance is determined to involve offender personal property, the unit grievance investigator (UGI) shall review the grievance to determine what statements and documentation are necessary to process the claim. **An investigation for all property claims at step 1 and step 2 shall include a review of all related property documentation:**

I. Step 1 Property Investigation

A. All step 1 property grievances shall be processed by the unit grievance staff on the unit of incident.

B. Property grievances shall be forwarded to the ***unit property officer*** for investigation and submission of investigative documents.

C. When a grievance is determined to involve offender personal property, the unit grievance investigator shall review the grievance to determine what statements and documentation are necessary to process the claim. An investigation for all property claims at Step 1 and Step 2 shall include a review of all related property documentation:

- Authorized Offender Property (PROP-01)
- Registered Property Receipts (PROP-02) or I-31
- Offender Intake Inventory (PROP-03)
- Intake Money Receipt (PROP-03.1)
- Storage Container Request and Tracking Log (PROP-04)
- Storage Container Record (PROP-04.1)
- Offender Property Inventory (PROP-05) or Personal Property Receipt (I-136)
- Property Room Log (PROP-06)
- TDCJ Property Tag (PROP-07)
- Disposition of confiscated Offender property (PROP-08) or Confiscation/Disposition form (AD-92)
- Offender Property envelope (PROP-09)
- Recyclable Items Log (PROP-10)
- Offender Property Card (PROP-11)
- Memo Shipping Ticket (MST) or BU-175

D. Investigative documents to be included with property investigations from the property officer shall include at least one of the following:

1. PROP-02, I-31, for registered property.
2. PROP-05 Offender Property Inventory Form.
3. PROP-08 Disposition of Confiscated Offender Property Form.
4. Commissary receipts and purchasing history.
5. Copies of the offender's banking history.
6. Mailroom log entries for items purchased from outside vendors.

E. A written statement from the property room staff alone is insufficient to conclude offender personal property investigations. A statement shall be obtained from staff involved, to include the staff that conducted the inventory or confiscated the property, and anyone who might have handled the property.

Step 1 Investigation

The same investigative process generally applies for both Step 1 and Step 2 grievances. The following was developed to assist the UGI in determining the validity of a property claim. All documentation gathered during the investigation will be attached to the grievance.

- List the missing or damaged property on the OG-01 worksheet. Be specific. If the offender has not provided enough information, an interview with the offender should be conducted as the first documented step of the investigation.
- The missing property should be items that the offender either purchased through the commissary, from and outside vendor, or was allowed to keep at the time of intake.
- State issued property should not be listed.

Contraband will not be considered for monetary reimbursement.

- Offenders will not receive compensation for the loss or damage of eyeglasses, dentures or other medical devises brought in at the time of intake. Claims involving these types of items will be referred to the Unit Medical Department at Step 1 or Health Services Division Headquarters Office at Step 2. Careful documentation of the circumstances surrounding the loss is important for determining what action may need to be taken.
- Document the offender's claim of what happened. Was the property lost, stolen, damaged, missing, or destroyed?
- Property lost or damaged during transfer between units is the most difficult to investigate. In these situations, begin with the history screen of the offender's movement. Obtain copies of all property inventory forms and BU-175 or MST documents from the time of departure from the last unit until the date the offender arrived at his current unit.

- Excess offender property may be shipped separately when an offender is transferred from one unit to another via Prison Store. In this case, contact the previous unit and obtain a copy of the MST and indicate the date of shipment on the OG-01 or I-136 forms. Ensure the inventory of items being shipped matches the offender's claim.
- Establish where the property was located and who was in possession of the property when the alleged loss occurred.
    - *Was the property stored in the property room?*
    - *Was it left in the mailroom to be mailed home or some other location awaiting shipment to a new unit?*
- If staff took possession of the property, even if a determination cannot be made as to what happened after that point, the agency may be responsible for replacement or reimbursement, including theft by other offenders.
    - *For example, assume that an officer confiscates an offender's property, but leaves it unattended in the hallway, or some other unsecured location, to help with corridor control. The property subsequently disappears. The property was in the possession and control of TDCJ at the time of loss, and the offender may be compensated for the loss.*
- Obtain a statement from staff involved, to include staff that conducted the inventory or confiscated the property, and anyone else who might have handled the property. **A written statement by itself from property room staff is insufficient to conclude offender personal property investigations. The property may not have even been sent to the property room.**
- In cases where offenders contribute to their personal property loss, or in cases where the loss is due to consequences of unit activities, the claim will not generally be considered.
    - The offender left his property unsecured in his cell or another area.
    - The offender flooded his cell or started a fire that caused the damage or loss.
    - Other offenders flooded the cellblock or started fires.
    - Disturbances or riots.
    - Staff responses to emergency situations such as fighting fires, quelling riots or a use of force.
    - Extortion by other offenders or theft.
    - Natural disasters such as hurricanes, floods, or tornadoes.
- Review the offender's unit classification file and the issuing property room for copies of registration forms (PROP-02 or I-31) for registered property items such as fans, radios, watches, rings, and typewriters. Copy and attach the form and all related documents to the grievance. If no documentation is found in the offender's unit file or the property room, then the UGI shall note this on the OG-01 worksheet.
- According to AD-03.72 "Offender Property", staff is responsible for completing a property inventory form (PROP-05) or confiscation form (PROP-08) each time the agency takes possession of offender property. Copies of these inventories are

maintained in the offender property room and the offender's unit classification file. The older versions prior to September 2002 are the I-136 and the AD-92. Property claims will require these documents in order for a proper review of the offender's claims.

- If the loss involved commissary purchased items such as food, hygiene items, or stationary, review the offender's banking history to determine if recent commissary purchases were made. Document if the offender has been indigent for the relevant period of time preceding the alleged loss or damage and document this on the OG-01 worksheet.
- If the property item was received from an outside vendor, consult with mailroom staff and obtain copies of log entries. All documentation reviewed should be copied and attached to the grievance as part of the investigation.
- For items claimed missing or damaged, review the past PROP-08s for earlier confiscation of the items in question, and compare confiscated items with subsequent commissary purchases for replacements.
- Obtain the most recent property inventory forms to determine when the offender last had authorized possession of the item in question and a copy of the registration receipt to verify ownership. These documents are necessary to complete a thorough investigation.
- If the property officer submits a written statement that the offender received his property, the PROP-06, PROP-05 or I-136; PROP-08 or AD-92 forms documenting the return of the property to the offender must be attached.
- Magazines, publications, packages or other items received by the mailroom via a private carrier, such as United Parcel Services (UPS), Airborne, Federal Express, or other private carriers are documented on the mailroom log. The offender must also sign for receipt of any item that was signed for by the agency. Gather the documentation to include a copy of the mailroom log, or delivery log, and obtain a copy of the receipt from the offender to verify the value of the item in question. Attach all documentation as part of the grievance investigation and note all findings on the OG-01 worksheet.
- The offender should provide information in the grievance or attach documentation that establishes a tangible value such as a receipt, an invoice, or another indication of cost. Grievance staff may verify the value by requesting more detailed information from the offender. The information that the offender provides to establish value may be cross-referenced with the official record in the offender unit file or property offices files to ensure authenticity. This value becomes the basis for any offer of monetary reimbursement, settlement, or replacement. Tangible value may also be established by:
    - Review of commissary receipts or purchase history.
    - Price lists from the commissary.
    - Value of comparable items from retail stores, catalogues, or the internet.

  - The date the offender purchased the item.
- When the determination is made that the offender's claim is valid and a tangible value has been established, the UGI shall attempt to resolve the claim with replacement items, if possible.
- Excess property from the recyclable inventory stored in the property room and recorded on the Recycled Property Log may be used to make the settlement. The replacement offer should be fair, and reasonably equivalent to the items lost. The items offered should also be of use to the offender and electrical items such as fans, radios, and typewriters in good repair. (*i.e. An offender of cookies would be of no value to a diabetic offender, and coffee would be of no value if the offender did not drink coffee).*
- Recycled property may not be available to make settlement for a variety of reasons. The UGI may contact neighboring units, or contact their regional grievance supervisor for assistance in obtaining suitable property for replacement offers.
- If the investigation supports that the TDCJ is responsible for the property claim, document any corrective action taken by unit administration. The information may or may not be appropriate for inclusion in the response to the offender, depending upon the sensitivity of the issue.
- Many claims can be avoided by training staff regarding property accountability; the proper use of the property forms; and by reinforcing AD-03.72, "Offender Property", through shift briefings and staff meetings.
- When completed, the investigation should address the following questions:
  - What items of property were lost, damaged, missing, or destroyed?
  - How did the alleged loss occur?
  - Who was in possession of the property at the time of loss?
  - Can the offender establish ownership of the items?
  - Can a tangible value be established for the items?
  - Can the claim be resolved by an offer of settlement or replacement?
  - If the agency is responsible, what action has been taken to compensate the loss?
  - What has the agency done to prevent future occurrence?
- To qualify for any type of compensation, the investigation must establish each of the following:
  - The property item lost or damaged must have been in the possession of TDCJ at the time of its loss or damage.
  - The offender must have had authorized ownership of the property.
  - The property item was not contraband.
  - The property item had a tangible value.
- Grievance responses shall be factual and informative. If the claim is not valid and there is no evidence to support the allegations, the offender should be informed of the reason for the denial of his claim. If the offender was offered a settlement, include a statement to that effect in the response. The UGI should attempt to resolve all substantiated

claims at the unit level. This can typically be accomplished with an equitable property settlement offer using recycled property.

- All investigative information and the suggested response shall be presented to the Warden for review and approval.
- If the investigation substantiates the claim, and it could not be resolved at the Step I level, an outcome code **"D"** will be documented on the OG-01 worksheet and entered into the GR00 Case Tracking System. The offender must file a Step 2 for further appeal of the loss.
- If restitution was accomplished, the grievance will be closed with an **"R"** outcome code documented on the OG-01 worksheet and entered into the GR00. If the offender refused an offer of restitution at Step 1, a **"D"** outcome code will be documented on the OG-01 worksheet and entered into GR00.

Step 2 Property Appeals

- In some cases, the CGO or regional investigator will begin another property investigation based on new allegations presented by the offender in the Step 2 grievance. The Step 2 investigation begins with a review of all investigative documentation from the Step 1 grievance.
- If the offender refused a fair and equitable offer for settlement, the claim may be denied on the appeal; however, the fairness and equitability of the offender made during the Step I process must be reviewed.
- The Step 2 investigation will either support the Step 1 response, or result in a granted property claim requiring an additional settlement offer or payment directly to the offender's trust found account. Property settlements resulting from Step 2 grievances require the cooperation of unit staff.

The Payment Process

All reasonable steps, including an equitable property settlement offer, will have been completed to avoid the time and expense of requiring the Texas Comptroller's Office to issue a warrant to deposit funds into the offender's trust fund account. Monetary reimbursement is **a last resort to settle property claims**; however, when necessary the following steps shall be taken.

1. The grievance and supporting investigative documentation will be submitted to the Director of Administrative Review & Risk Management for final approval and signature. ***Flag for Director Signature***. The documents necessary for payment will be presented in the following order:
   a. Typical Evaluation.
   b. Step 2 Grievance, including the Step 1 and all investigative documentation.
   c. Payment Processing Request Letter.

2. After the Director of Administrative Review & Risk Management has approved payment, the Step 2 grievance will be returned to the CGO for final processing by CGO staff.
3. The response will be typed on the grievance. The grievance will be closed with the **"R"** outcome code documented on the OG-01 worksheet and entered into the GR00 case tracking system.
4. The grievance and all supporting documentation, including any documents submitted by the offender, will be copied and retained until the payment process is completed.
5. The completed original Step 2 grievance, including a response and signature, shall be returned to the offender. Any documents submitted by the offender will also be returned with the Step 2 grievance.
6. **Notification Emails** will be sent to the Warden, Regional Director, and other department advising that monetary reimbursement for lost or damaged property was approved.
7. The UGI will receive an email with instructions to complete the Monetary Reimbursement Agreement Form (Appendix O).
8. Designated CGO staff will maintain and monitor the flow of documents to and from the unit to ensure that the completed forms are received in a timely manner.
9. Monetary Reimbursement Agreement Forms returned to the CGO from the unit will be reviewed for accuracy and completeness by the designated CGO supervisor.
10. Completed Monetary Reimbursement Agreement Forms and the signed Payment Processing Request Letter will be sent to the TDCJ Accounts Payable Department, Payment Processing, who in turn will forward the request to the State Comptroller's Office.
11. If the offender refuses the settlement offer, a letter will be sent to the offender explaining the consequences of the refusal and he will be given a second opportunity to accept the offer.
12. The State Comptroller's Office will return a copy of the warrant to the CGO indicating the money was deposited into the offender's trust fund account.
13. CGO staff will be instructed to update the GR00 with the amount of reimbursement noted in the comment section.
14. CGO staff will image all documentation, including the grievance, warrant, and investigative documentation.
15. Occasionally, the State Comptroller's Office may reject a payment request if the offender owes back child support or does not have a social security number. In these cases, the CGO will send a letter to the offender explaining the circumstances.

If resolution can only be made by depositing money into the offender's trust fund account, the following response should be typed on the Step 2 grievance:
"Property Claim # **(enter grievance #)** was reviewed by this office and responsibility for the loss or damage appears to rest with the agency. You were offered and accepted $ (amount of reimbursement) as reimbursement for your (list property items) as noted by

your signature on the Monetary Reimbursement Agreement form dated **(list date)**. The amount of reimbursement was based on the age and fair market value of the item. The funds have been deposited into your trust fund account."

II. Property Settlements

A. When a determination is made that the offender's claim is valid and a tangible value has been established, unit grievance staff shall confer with the unit property officer and attempt to resolve the claim with replacement items.

B. A replacement offer should be fair, and reasonably equivalent to the items lost. The items offered should also be of use to the offender and electrical items such as fans, radios, and typewriters in good repair.

C. The unit property officer may contact neighboring units, or request that the unit grievance staff contact their regional grievance supervisor for assistance in obtaining suitable property for settlements.

D. The UGI shall document all corrective action taken by unit administration for investigations supporting that the TDCJ is responsible for the property loss. The information may or may not be appropriate for inclusion in the response to the offender, depending upon the sensitivity of the issues.

III. Monetary Compensation

A. The investigation must establish each of the following to qualify for any type of compensation:

1. The property item lost or damaged must have been in the possession of TDCJ at the time of its loss or damage.

2. The offender must have had authorized ownership of the property.

3. The property item was not contraband.

4. The property item had a tangible value.

IV. Responses

A. Grievance responses shall be factual and informative. The offender shall be informed of the reason for a denial of a claim when the claim is not valid and when there is insufficient evidence to support the allegation. A statement shall be included to that effect in the response when the offender was offered a settlement.

B. All investigative information and the suggested response shall be presented to the warden for review and approval.

V. Outcome Codes for property disposition.

A. Outcome code "D" shall be utilized for the following;

1. Substantiated investigations that could not be resolved at step 1 when monetary compensation is necessary.

2. Substantiated investigations when the offender refuses compensation.

3. Unsubstantiated investigation when sufficient evidence was not determined to validate the offender's allegation.

B. Outcome code "R" shall be utilized in the following;

1. Substantiated investigations when the offender accepted restitution.

SUBJECT: Step 1 Disciplinary Appeals

PURPOSE: To establish procedures and guidelines for processing a Step 1 disciplinary appeal.

PROCEDURES:
The offender grievance program is designated by the TDCJ as the formal appeal mechanism through which an offender can seek another review of the disciplinary hearing results. Grievance staff are responsible for investigating all offender disciplinary appeals requested through the offender grievance program.

I. Processing

A. An offender has 15 days from the date of the disciplinary hearing to appeal the outcome.

B. All Step 1 disciplinary appeals shall be processed by the unit grievance staff on the offender's current unit of assignment within 30 days of receipt from the offender.

C. Only (1) grievance shall be processed per disciplinary case.

D. Disciplinary appeals are exempt from the following screening criteria:

1. Submission in excess of 1 every 7 days.
2. No documented attempt at informal resolution.

E. The **incident date** entered into the GR00 Case Tracking System for a disciplinary appeal will be the **hearing date**. The disciplinary case number shall be entered in the designated field of the GR00.

F. Unit grievance staff shall collect and review all documentation relevant to the disciplinary case. The review shall ensure that all due process and procedural requirements were met, and the case was fair and consistent with the evidence. The offender should provide the disciplinary case number; however, the grievance shall still be processed even if the case number is not provided. The unit grievance staff shall formulate a recommended response for the warden's review and signature.

G. Grievance investigations shall include all information gathered from the disciplinary report. The counsel substitute investigation, and the notes and comments made by the Disciplinary Hearing Officer (DHO). Each of these elements is essential when reviewing a grievance to determine if the offender was afforded all of his due process rights. The hearing tape serves to support the documentation, but does not replace it.

H. The disciplinary case shall be overturned when disciplinary paperwork is lost and the unit shall be afforded the option to re-hear the case.

I. There are three **basic grounds for disciplinary appeals;**

1. Due Process and Procedural Rights violations.
2. Insufficient evidence to support a finding of guilt.
3. Penalty imposed by the DHO was too severe.

J. The Disciplinary Worksheet and Document Checklist (Appendix K) shall be completed to ensure due process requirements were met, to provide a summary of the case process and to record that all appropriate documentation is attached.

II. Guidelines

A. The disciplinary hearing tape may be reviewed and the information used to formulate a response when the documentation provided is not sufficient to review the case.

B. The review will ensure all due process and procedural requirements were met, the case was fair and consistent with the evidence, the punishment imposed was within the guidelines and consistent with the charge, and the punishment was progressive when considering the seriousness of the charge and the offender's prior disciplinary record.

III. Major Disciplinary Case

A. Documentation required when the offender **is present** at the hearing:

1. I – 47 MA – TDCJ Disciplinary Report and Hearing Record.
2. I – 210 Front – Offense Report.
3. I – 210 Back – Preliminary Investigation Report.
4. CS – 10.11A and CS-10.11B – Service Investigation Worksheet.
5. CS – 12 – Hearing Worksheet.
6. CS – 09 – Witness Statement(s).
7. AD – 06.56, "Procedures for Handling Offenders Identified as Suicide Risks," Attachment A Mental Health Disciplinary Review Form. This form must be attached to the cases of offenders who are LMHA (Local Mental Health Authority) restricted for participation in the disciplinary process, as well as, any offender charged with code 31 Self-inflicted bodily injuries or threatening to self-inflict bodily injury.
8. Additional documentation related to the disciplinary case such as disciplinary forms, written statements, documentary evidence, photos, or other evidence.

B. Documentation required when the offender **is not present** at the hearing in addition to the above listed documents:

1. CS–14 – Notification of Disciplinary Hearing, Refusal to Attend Hearing. Completed when an offender in administrative segregation, PHD, or any form of lockdown status that requires an escort who does not wish to attend a major disciplinary hearing.
2. I–217 – Disciplinary Hearing Results Notification for both general population and segregation offenders.

IV. Minor Disciplinary Case

A. Documentation required when the offender **is present** at the hearing, in addition to the above listed documents:

1. I – 47 MI – TDCJ Disciplinary Report and Hearing Record.
2. I – 210 Front – Offense Report.
3. I – 210 Back – Preliminary Investigation Report.
4. Additional documentation related to the disciplinary.

B. Documentation required when the offender **is not present** at the hearing:

1. I – 217 – Disciplinary Hearing Results Notification.

V. Reviewing for Due Process Violations

A. The offender did not receive notice of the charges at least 24 hours prior to the hearing, unless waived by the offender. A request for a 24 hour waiver may not be granted unless the offender has **signed** the 24 hour notice waiver line on the I-47MI or I-47MA.

B. The offender was denied witnesses, questioning the accusing officer through his counsel substitute, or presentation of documentary evidence without adequate justification.

C. The DHO failed to take the appropriate actions when non-frivolous evidence was presented in defense of the offender.

D. The offender is on the Mental Health Services caseload and restricted from participation in the disciplinary process without clearance by the Mental Health Services Staff. All offenders charged with offense code 31 require MHMR clearance.

E. Offender was excluded from the hearing without justification.

F. Interpreter was not provided, when required.

G. The reason for the finding of guilt must be documented on the I-47MA.

H. The reason for the penalty imposed must be documented on the I-47MA.

I. Additional due process issues that affect fundamental fairness which are consistent with, but not limited to the above.

VI. Reviewing for Sufficient Evidence

A. Review lab reports such as field test kits in drug-related cases.

B. Review medical record for work restrictions for cases involving refusal to work or housing restrictions, when refusing to accept a housing assignment.

C.

Does the charging officer, the accused offender, or witnesses substantiate the charge at the hearing? Do they refute the charge? Review the testimony of the charging officer, accused offender, or witnesses.

D. Review any additional evidence that may support or refute the charge.

E. Ensure the evidence satisfies elements of the offense. The elements are defined for each charge in the Disciplinary Rules and Procedures for Offenders (GR-106) and the Standard Offense Pleadings Handbook (GR-107).

VII. Reviewing Disciplinary Cases Involving Confidential Informant Testimony

A. Staff may not always observe rule violations by offenders. When an offender observes a rule violation by another offender and informs staff of the violation, an investigation, separate and from the counsel substitute investigation should be initiated in accordance with Administrative Memorandum – 89.V.I.E. 4.01 (REV 1). A confidential informant investigation must reveal corroborating evidence to sustain the charges so that the case is not based solely on the information provided by the informant. Evidence provided by a confidential source may be utilized as additional evidence at a disciplinary hearing; however, this evidence alone is not sufficient to establish guilt.

B. Information provided by a confidential informant must be corroborated by evidence gathered from or provided by a non-informant source.

C. Care must be exercised to protect the identity of a confidential informant.

D. Confidential informant investigations must be conducted by a staff member holding the rank of captain or above.

E. The Confidential Informant (CI) checklist must be completed and attached to the documentation.

F. Designated confidential informant questions must be asked and answered at the hearing.

VIII. Disciplinary Penalties

A. Penalty guidelines are outlined in the ***Disciplinary Rules and Procedures for Offenders Handbook***. Good time loss limits are applied based on the cumulative number of convictions resulting in major penalties within the 180 days preceding the current case. A single case with multiple charges resulting in guilty findings should be counted as one case.

IX. Remedies Available for Disciplinary Appeals

A. Any punishment imposed as a result of the hearing may be modified or overturned when grievance staff identifies a due process error in the disciplinary hearing. When a disciplinary case is overturned, the offender shall be advised of this action in the grievance response.

B. The charge and punishment may be modified if correctable errors are identified by grievance staff.

C. The charge and penalties may be modified or the case overturned when grievance staff identifies the disciplinary charge was inappropriate or if there was insufficient evidence to support the charge.

X. Processing the Correction

A. A Request for Disciplinary Case Correction E-Form will be sent to the chairman of the State Classification Committee requesting that the offender's records be corrected to reflect a modification or deletion of the charges and punishment when a disciplinary case is overturned or modified.

SUBJECT: Step 1 Medical Grievances

PURPOSE: To establish procedures and guidelines for processing Step 1 grievances.

PROCEDURES:

Grievances staff shall review, code and process medical grievances on the date received and close within established time limits. Medical grievances that identify emergency related issues shall be processed in accordance with procedures outlined in the manual section 1.03 Emergency Grievances-Non PREA Allegations. All other medical complaints shall be processed as a regular grievance.

I. Screening

A. The unit grievance investigator (UGI) shall forward medical grievances that meet the eligibility requirements of the screening criteria to the unit practice manager, health administrator, director of nursing or nurse administrator as appropriate, for review. Medical staff shall determine if the screening criteria for the grievance will not adversely affect the offender's health, and sign the Medical Signature Authority section on the back of the Step 1 form and return to the UGI. The UGI shall print and sign their name on the line provided complete the OFFICE USE ONLY box on the back of the Step 1 form and return to the offender. It is the offender's responsibility to correct the grievance after being screened and resubmit within the appropriate time frame.

II. Processing

A. Medical grievances are identified as emergency, or regular at the Step 1 level, based on the nature of the complaint. A non-emergency medical grievance regarding quality of care, treatment received, or specific medical programs shall be processed as a grievance, subject to all screening criteria.

B. The UGI shall immediately notify one or more of the below listed medical supervisors as appropriate for grievances alleging medical emergencies, such as threats of suicide, chest pains, or difficulty breathing.

- Health Services Administrator
- Unit Practice Manager
- Director of Nursing
- Nurse Administrator

C. The investigation shall be initiated and coordinated with the unit medical department in accordance with the emergency procedures outlined in the OGOM section ***1.03 Emergency Grievances***.

D. The **unit grievance staff shall forward** the following documents to the unit practice manager, health administrator, director of nursing or nurse administrator, as appropriate:

1. The **original** grievance received from the offender (Unit grievance staff on the sending unit shall keep a complete copy of the original grievance until the original is returned from medical).
2. An **OG-01** grievance worksheet completed through the Requested Remedy section.

3. A copy of the medical grievance **checklist** titled Documents and Forms Required for Investigation of Medical Grievances Checklist (Appendix L). Unit grievance staff records the information on line #1 of the checklist prior to forwarding to the medical department.

E. The unit practice manager, health administrator, director of nursing or nurse administrator, as appropriate, shall:

1. Review the issues presented in the grievance.

2. Route the grievance to the responsible party for investigation who will:

   a. Compile the supporting documentation from the offender's Electronic Medical Record (EMR).

   b. Record information on lines #2 – 2(d) and sign line #3 of the medical grievances checklist.

   c. Document the findings.

   d. Sign the OG-01 worksheet. For allegations of harassment or retaliation, the 606 issue code: also complete the Warden or Designee or Medical Signature Authority box at the bottom of the form; check the appropriate box for no action warranted or administrative action; and provide their signature, title and date.

   e. Type a response on the original grievance form.

F. The signature authority shall sign and date the completed grievance. The only approved signature authorities for Step 1 medical grievances are the unit practice manager, health administrator, director of nursing or nurse administrator, as appropriate.

G. Return the answered and signed grievance with all investigative documentation to the UGI within 35 days of the date the grievance was received from the offender. Additional time may be requested; however, the 45-day time limit still applies.

H. The following steps shall be completed by the UGI upon receipt of the completed medical grievance:

1. Record the information on line #4 of the medical grievances checklist.

2. Conduct a quality review of the grievance investigation ensuring that:

   a. The medical grievance checklist is attached to the grievance; all applicable sections of the checklist are recorded, and the form is signed by medical staff.

   b. The documents marked on the checklist match the documentation attached to the grievance.

   c. A copy of any medical policy referenced in the investigation and response to the offender is attached to the grievance.

   d. That the supporting documentation is attached to the grievance for all investigative notes listed on the OG-01 worksheet.

e. The response matches the issue presented by the offender in the grievance. Contact the unit practice manager, health administrator, director of nursing or nurse administrator as appropriate, to acquire support documentation that is not attached to the grievance.

f. Obtain statements that are needed as support documentation from non-medical staff such as security or, departmental staff.

3. Forward the signed grievance and response to the warden for review. The warden acknowledges their review of the grievance by placing their **initials** on the front, upper left-hand corner of the original grievance form.

SUBJECT: Transferring Step 1 Grievances (TG) to the Unit of Incident

PURPOSE: To establish procedures and guidelines for transferring grievances to the unit of occurrence.

PROCEDURES:
Grievances received from offenders with allegations involving incidents that occurred at another unit shall be transferred to the unit of occurrence for investigation and signature. ***Disciplinary appeals shall be processed on the current unit of assignment.***

I. Processing a Transferred Grievance

A. An investigator ID number shall be assigned to all grievances that are entered into GR00 on the date received. At no time shall there be a grievance entered into GR00 without an investigator ID assigned. Alternate investigators shall assign grievances their investigator ID when assisting investigators that are out of the office. The absent investigator shall update GR00 when returning to work.

B. Grievance staff on the offender's current unit of assignment shall review the grievance, apply the screening criteria, if applicable, and enter it into the GR00.

C. The Unit Grievance Investigator (UGI) shall enter "TG to (Unit of Incident) on (Date mm/dd/yy)" into the GR00 comment section for grievances eligible for processing.

D. Grievance staff on the unit of assignment shall email the details of the complaint and the offender's information, to the grievance staff on the unit of incident indicating the method and date the grievance will be mailed. The sending unit investigator shall make a copy of the grievance along with any investigative documentation before mailing the grievance via first class mail to the unit where the incident occurred. A copy of the documents shall be placed in a TG pending file on the unit of assignment.

E. The receiving unit investigator shall update the investigator ID information as soon as the grievance is received.

F. The receiving investigator shall communicate with the unit investigator that transferred a grievance to determine if a grievance was misplaced or lost, when the grievance has not arrived within ten calendar days.

G. The investigation, response and authorized signature are the responsibility of the unit grievance staff on the unit of incident.

H. Completed grievance investigations and all investigative documents shall be forwarded via first class mail to the offender's current unit of assignment. A copy of all documentation shall be placed in a TG pending file.

I. The unit grievance staff on the offender's current unit of assignment is responsible for closing the grievance in the GR00; placing a complete copy of the grievance and investigative documentation in the offender's grievance file; and returning the original completed grievance to the offender. Once the grievance has been closed, the extra copy at the sending unit may be destroyed. The UGI on the offender's current unit of assignment shall send an email to the UGI on the unit of incident stating that the grievance has been closed and returned to the offender. The copy of the grievance in the TG pending file at the unit of incident is to be destroyed.

SUBJECT: Step 1 Unit Records and File Management

PURPOSE: To establish specific guidelines for the management of offender grievance records.

PROCEDURES:
Unit grievance staff is responsible for establishing and maintaining a grievance file for each offender that contains all processed and unprocessed Step 1 grievances and investigative documentation. The Unit Grievance Office shall be the office of record for all Step 1 grievances until the offender is transferred to another permanent unit of assignment.

I. Step 1 Grievances

A. Grievance staff shall utilize the TDCJ mainframe system to verify the offender is assigned to the unit. Newly received grievance files shall contain all documents in date order, based on the signature date on the grievance, with the most recent date in the front.

B. Grievance staff shall complete the GR00 Screen 24 by entering the unit's two-digit code and the date the file was received.

C. Grievance staff is responsible for daily filing of all completed Step 1 grievances.

D. Grievance staff shall ensure the documents are in the correct order prior to filing a grievance:

1. Signed and answered Step 1 grievance form.
2. CONFIDENTIALITY form.
3. OG-01 Worksheet.
4. All support documents.

E. Grievance files shall be kept confidential and secure at all times. Grievance investigations and records shall be stored in locked cabinets.

II. Transferring Grievance Files

A. Grievance files for offenders that are transferred to a new unit of assignment shall be entered into the GR00 Case Tracking System Screen 24. Grievance staff shall enter the unit's two digit code and the date the file was mailed and forwarded to the unit of assignment. **The mailing of individual grievances is not entered into the GR00 Screen 24.**

B. Grievance staff shall acquire the outgoing chain list, check the active files for offenders transferring from the unit, and purge the files prior to mailing until agency records retention requirements have been exhausted.

C. Grievance staff shall check the 18 screen for any pending grievances prior to sending any file to a new unit of assignment. Do not send the file to a new unit of assignment until all grievances are completed and copies placed in the file.

D. Files shall be placed in a suspense file for offenders **temporarily transferred** to other units, until the offender reaches a permanent unit of assignment.

E. In the event an offender departs custody prior to a Step 1 grievance being closed, the grievance investigation shall be completed and placed in the offender's inactive grievance file. The offender's grievance file shall remain on the last unit of assignment until the records retention requirements have exhausted. In the event that the offender provides a forwarding address, the grievance will be mailed to the offender.

III. Records Retention and Purging Files

A. Offender grievance records shall be retained for three years from the date the grievance is closed unless litigation is pending. The unit grievance staff shall check the grievance record on the GR00, Option 19 screen, and review the litigation field. If a 'Y' appears in the litigation field, the grievance file is not to be purged. Therefore, any grievance still identified on the GR00 should be maintained in the offender's grievance file.

B. Grievance staff shall ensure that offender grievance files not involved in litigation are purged every six months, at the direction of the Central Grievance Office. The Administrator of Offender Grievances will notify grievance staff regarding the specific purge date for all files in order to maintain consistency with the GR00 Case Tracking System.

C. The purging of files must be documented on the AD-02.29, "Records Management", Attachment A, Records Disposition Log (Appendix Q). Once complete, the log is to be forwarded to the TDCJ Records Management Officer, Executive Services Department, to be kept as a permanent record.

D. Step 1 grievance records shall be maintained in accordance with the agency's Records Retention Schedule.

IV. Mailing Options

A. Truck mail is the inter-agency mail service most commonly used, and should still be used in those locations where the truck mail has proved to be reliable and efficient, delivered within 2-4 days. Each package must weigh less than 20 pounds.

B. Truck mail should be used to transfer grievance files when an offender is transferred to another unit; however, the weight limit should be taken into consideration.

C. Units where truck mail is not available or it has proven unreliable and inefficient, should use first class mail for packages and letters weighing less than 13 ounces. If the item mailed is 13 ounces or more, priority mail should be utilized. Priority mail envelopes, boxes, and stickers are available from the U.S. Post Office at no charge.

D. Except in the most extreme cases and only at the direction of the warden, regional director, or administrator of Offender Grievance should contracted mail carriers such as FedEx, be utilized to mail grievances. For instance, to meet court deadlines.

SUBJECT: Step 2 Grievances Received at Unit

PURPOSE: To establish specific guidelines for the management of step 2 grievances received at the unit.

PROCEDURES:

Step 2 grievances shall be collected in the same manner as listed in **Section 1.01.A.1** of this manual, **Step 1 Grievance Process.** Step 2 appeals must be attached to the answered Step 1. Step 2 grievances that are mailed directly to the Central Grievance Office (CGO) from the offender shall be returned to the offender with instructions on how to submit the grievance correctly.

I. Step 2 Grievances Received at the Unit

A. Grievance staff shall:

1. Ensure all step 2 grievances written in a language other than English are translated by a TDCJ certified interpreter.

2. Review the step 2 grievances for emergency issues. If an emergency is identified, the grievance staff shall make the required notifications in accordance with the *Safe Prisons Plan*. The notification emails and all action taken by the UGI must be documented on an OG-01 Grievance Worksheet, and all documents forwarded to CGO.

3. Grievance staff shall enter the date received at the unit into GR00 Case Tracking System, and record the 'UGI Rec'd Date', grievance number, and the issue code in the OFFICE USE ONLY box on the front of the Step 2 grievance form. The grievance number and the issue code must be the same as listed on the Step 1 form.

B. Unit grievances staff shall enter all step 2 grievances into GR00 as received and forwarded to the CGO on the date received at the unit and **not accumulated**. Copy the entire Step 1 investigation from the file, attach to Step 2 along with the Step 1 and forward to CGO. If the investigation is not at your unit, do not hold the Step 2, send the Step 2 to CGO with a notation that the file is not on your unit. The most cost effective means available shall be utilized when forwarding step 2 grievances and correspondence to CGO.

II. Step 2 Grievances Returned to the Unit

A. Grievance staff shall place a date stamp in the upper right hand corner above the OFFICE USE ONLY box for completed step 2 grievances received at the unit. This will indicate the date the step 2 was returned to the offender.

B. Check the unit of assignment to ensure the offender is assigned to your unit. If the offender is not assigned to your unit, notate in comment section and forward to the unit of assignment.

C. The date returned to the offender in GR00, Screen 09, Option 02, Step 2 "Returned to the Offender," must correspond with the date stamped above the OFFICE USE ONLY box.

SUBJECT: Step 2 Grievances

PURPOSE: To establish procedures and guidelines for processing Step 2 grievances.

PROCEDURES:
Step 2 grievances are received at the unit level along with the correlating step 1, entered in the **GR00** Case Tracking System and forwarded to the Central Grievance Office for processing.

I. Sorting and Prioritizing

A. Step 2 grievances that qualify for processing shall be processed by CGO staff and distributed to the appropriate regional office, proponent office or the Central Grievance office based on the issue code assigned to the grievance.

B. Grievance staff shall check the appropriate screening criteria (if applicable) on the backside of the grievance form, and then sign and print their name in the CGO staff signature line of the grievance.

C. Grievances submitted written in pencil shall be copied and the copy utilized as an original grievance. Grievance staff shall write and highlight "Accepted as Original" at the top of the grievance. The grievance written in pencil shall be added to the completed investigative documentation.

D. The program administrator or designee shall review and evaluate the nature of the grievance. If it is determined that the department received a grievance in error, the grievance shall be returned to the CGO with a written explanation and signature provided on the OG-01 Grievance Worksheet.

E. Matters pertaining to the individual department, the program administrator or designee shall:

1. Review the step 1 investigation.
2. Initiate any additional investigation.
3. Attach investigative documentation.
4. Complete the OG-01.
5. Print the response to the offender on the original form and have the appropriate signature authority sign.

F. Signed grievances and all investigative documentation are returned to the CGO for final processing.

G. The step 2 processes shall be completed within 40 days of receipt from the offender, 45 days for medical grievances (600 issue codes).

II. Signature Authority

A. The signature authority for Step 2 grievances shall be the division director, deputy division director, manager of resolution support, program administrator, assistant program administrator or designee of the proponent conducting the investigation.

III. Step 2 Records

A. The Central Grievance Office is the office of record for Step 2 grievances and shall retain all Step 2 grievance records in accordance with TDCJ Records Retention Schedule.

SUBJECT: Step 2 Grievance Sorting and Prioritizing

PURPOSE: To establish procedures and guidelines for sorting and prioritizing Step 2 grievances.

PROCEDURES:
The Central Grievance Office (CGO) staff is responsible for receiving, sorting, duplication, and dissemination of grievances submitted for appeal at Step 2 each workday.

I. Initial processing

A. CGO staff shall sort grievances to ensure:

1. Name and TDCJ number on the Step 1 and Step 2 correspond.
2. The Step 1 and Step 2 grievance numbers correspond.
3. The issue code listed on the Step 1 is recorded on the Step 2.
4. The Step 2 was entered in GR00 when received at the unit.
5. A cover sheet is included with each envelope or package that lists all grievances included in the envelope or package.
6. All grievances written in a language other than English shall be translated prior to being forwarded to CGO. *See section OGOM 5.00.*

B. CGO staff shall stamp the receive date and write the date due in the OFFICE USE ONLY box.

C. CGO staff shall enter the received at CGO date in GR00 screen 10 and assign to the appropriate investigating authority in GR00 screen 11. Screen 11 will be printed and used as a cover sheet.

D. CGO staff shall disseminate the assigned grievances to the appropriate investigating authority.

E. CGO staff shall type Inter-Office Communications (IOC), correspondence, or complete special assignments as required.

II. Final processing

A. CGO staff shall enter data in GR00 Screen 14.

B. CGO staff shall send the original forms and documents to imaging personnel when returned from analysts, proponents and regions. CGO staff shall ensure each grievance is closed with the proper outcome code.

C. CGO staff shall enter the appropriate outcome and resolution codes in GR00 Screen 16.

D. CGO staff shall ensure the Step 2 grievance is closed and the appropriate unit of assignment is marked on the grievance to be mailed to the offender.

E. CGO staff shall fold the completed Step 2 grievances being returned to offenders in a manner that the response and grievance text are not visible; then tape the grievance closed.

F. The folded grievances shall be sorted by unit; placed in a large truck mail envelope addressed to the UGI at the offender's current unit of assignment; and the envelope mailed to the UGI.

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SUBJECT: Step 2 Grievance Routing

PURPOSE: To establish procedures and guidelines for routing Step 2 grievances.

PROCEDURES:
Step 2 grievances will be sorted and routed to the appropriate authority for investigation, response, and signature according to the following table:

CODE	ISSUE	AUTHORITY
000	Allegations of physical harm from another offender	CGO & Private Facilities Contract Monitoring Oversight Division (PFCMOD)
002	**Allegations of physical contact or assault by staff**	**OIG**
003	Medical Emergencies	Program Administrator for Medical
004, 526	ADA Issues, Safety Issues	Program Administrator for Risk Management
005	Allegations of Voyeurism (Staff)	CGO & PFCMOD -if not supported by evidence. **(If supported by evidence, refer to OIG)**
006, 007	Discrimination Issues, Extortion	CGO & PFCMOD
008, 011	**Allegations of Sexual Assault (Offender or Staff)**	**OIG**
009, 012	**Allegations of Sexual Abuse (Offender or Staff)**	**OIG**
010, 013	**Allegations of Sexual Harassment (Offender or staff)**	CGO & PFCMOD -if not supported by evidence. **(If supported by evidence, refer to OIG)**
014, 015	Allegations of Verbal Threats (Offender or Staff)	CGO & PFCMOD
016	**Third party allegations of sexual abuse/assault/contact/ harassment by an offender**	CGO /Respond with OGOM 9.00, III (A) statement and refer to **OIG.**
017	**Third party allegations of sexual abuse/assault/contact/harassment by staff**	CGO/Respond with OGOM 9.00, III (A) statement and refer to **OIG.**
018, 019	**PREA Allegations – Third party does not want to file a grievance or Third party wants to file a grievance**	CGO /Respond with OGOM 9.00, III (A) statement and refer to **OIG.**
020	Lethal Injection Issues	Central Grievance Office
100's	Religious Issues	Program Administrator for Chaplaincy
200's	Classification Issues	CGO & PFCMOD
300-303, 309	Communication Issues, Visits (non-legal), Telephone Calls, Interview Requests	CGO & PFCMOD
304-308	Mail Issues	Program Administrator for MSCP
400's	Disciplinary Appeals	Central Grievance Office
500-510	Operational Issues, Food, Commissary, Trust Fund, Sanitation, Necessities, Activity Rotation, Living and Working Conditions, Grooming, Recreation, Showers, etc.	CGO & PFCMOD
512 - 515, 525	Confiscation/Contraband, Property Lost/Damaged/Stolen, Property Policy, Craft Shop	CGO & PFCMOD
518-522, 524	Searches, Maintenance, Drug Testing	CGO & PFCMOD
523	Institutional Lockdown	Central Grievance Office
600's	Medical	Program Administrator for Medical
700's	Access to Courts	Program Administrator for Access to Courts
800, 801, 802,803	**Staff Claim (OIG)**	**OIG**
804-805	**Retaliation/Harassment for use of Grievance procedure and efforts to exercise Access to Courts Rights**	CGO & PFCMOD if not evidence/ **(If supported by evidence, refer to OIG)**
806-815	Staff Complaint	CGO & PFCMOD
900	Transportation	Program Administrator for Transportation
901, 903, 904, 910	Grievance Procedure / Miscellaneous Claims	Central Grievance Office
911	DNA Issues	Central Grievance Office

SUBJECT: Step 2 Grievance Screening

PURPOSE: To establish procedures and guidelines for screening Step 2 grievances.

PROCEDURES:
Grievances that do not qualify for processing may be returned to the offender unprocessed. Screened grievances do not require investigation, response, or an approving signature.

I. Screened Grievances

A. Grievance staff shall review the Step 2 grievance received at the CGO. Regular grievances may be screened based on screening criteria outlined by AD-03.82, "Management of Offender Grievances". If multiple screening criteria exist, each applicable criterion must be checked and the grievance entered into the GR00 before being returned to the offender unprocessed.

B. Grievance investigators are expected to apply good correctional practice and exercise sound judgment when applying the screening criteria. If any level of uncertainty exists concerning the applicability of screening criteria, grievance investigators should err on the side of caution, and process the grievance.

C. Grievances screened for "Grievable time period has expired" may not be corrected and resubmitted at step 2:

D. Grievance staff shall check the appropriate box indicating all applicable screening criteria on the back of the I-128 grievance form, and sign and print their name in the CGO staff signature line of the grievance. In the OFFICE USE ONLY box, record the screening criteria applied, "99" code used, the date the grievance was received and returned to the offender, and the unit grievance staff initials.

E. Unprocessed/screened grievances are closed using the outcome code "H", and imaged prior to being returned to the offender. Step 2 grievance records must be updated in the designated field in the "Office Use Only" box when an offender corrects and resubmits a grievance.

F. Offenders shall have 15 days from the date documented in the "Office Use Only" box on the back of the form to correct and resubmit the grievance for processing.

G. The following criteria noted with an asterisk (*) are eligible for correction and resubmission:

1. **Grievable time period has expired**:
   Offenders have 15 days to appeal the Step 1 decision on the grievance, beginning from the date of the warden's signature on the Step 1 grievance, or the date of return of the Step 1 grievance to the offender. Grievances will be accepted for review up to and including the first working day beyond the 15 day time limit. Grievances received after that time may be returned to the offender unprocessed. When calculating the 15 day time limit, consideration shall be given for the number of days grievances were not collected, such as holidays that fall during the workweek or weekends.

2. **Illegible/incomprehensible.***
   Offender grievances that are illegible or incomprehensible may be returned to the offender unprocessed. When criterion is continually used for the same offender, grievance staff shall **interview the offender** to ensure the offender knows how to submit a grievance and there are no issues being missed that should be addressed.

3. **Originals not submitted.***
Offenders must submit the original, answered Step 1 grievance form with their Step 2 form. Hand written or typed carbon copies are not considered original documents, even if the original signature is documented on the signature line. Every effort should be made to make grievance forms available to all offenders; however, any document in original form, identifiable as a grievance, shall be considered for processing. Grievances that are not signed by the offender, or when an offender writes a name on the grievance other than his name of commitment such as, a Muslim name or an alias, the grievance may be returned unprocessed.

4. **Inappropriate/excessive attachments.***
Offenders must state the nature of the grievance on a single grievance form in the space provided. Agency documents such as answered sick call request forms; answered I-60's, inventories, and receipts that may substantiate or further prove the offenders allegations should be accepted and the grievance processed. Unofficial documents, continuation pages, informal legal-like documents, petitions, unanswered I-60's or sick call requests, and drawings will not be accepted. Items such as insects, food particles, or similar items shall not be accepted as attachments. Grievances submitted with excessive or inappropriate attachments may be returned to the offender unprocessed.

5. **Malicious use of vulgar, indecent, or physically threatening language directed at an individual.***
Offender grievances that contain blatant, malicious use of vulgar, indecent, or physically threatening language directed at an individual may be returned to the offender unprocessed. Threats of physical harm to staff should be reported to unit officials. The Administrator for Offender Grievance must be contacted prior to using a grievance as the basis for a disciplinary case.

6. **Inappropriate***

- Disciplinary appeals submitted prior to the disciplinary hearing.
- Grievances requesting disciplinary action against an employee, such as a reprimand, termination, counseling, or disciplinary action.
- Request for compensation as a result of consequential or punitive damages may be returned to the offender unprocessed.

II. When a Step 2 grievance is returned to an offender unprocessed:

A. It is the offender's responsibility to make corrections, if applicable, and resubmit the grievance within 15 days from the "Date Returned to the Offender" in the OFFICE USE ONLY box on the back of the I-128 form. If the offender resubmits the grievance without making the corrections, the grievance shall be returned to the offender, and the original screening criteria still applies.

B. Offenders that correct and resubmit their grievance but make another error that qualifies for screening, shall have the grievance returned unprocessed, and shall be given an additional 15 days to correct and resubmit the grievance. An entry to the GR00 shall be made in the designated field.

C. Offenders that attempt but fail to correct and resubmit the grievance a third time will be interviewed by the UGI to ensure he knows how to submit a grievance correctly. The Instructions on How to write and Submit Grievances (Appendix B) may be distributed to the offender.

D. The fourth time an offender resubmits a screened grievance that has not been corrected, staff will attach the previous interview to the original step 2 grievances, image the document, and return the step 1, however, the step 2 will not be returned to the offender.

SUBJECT: Step 2 Emergency Grievances

PURPOSE: To establish procedures and guidelines for processing Step 2 emergency grievances.

PROCEDURES:

An emergency grievance is a written complaint about matters that would subject an offender to a substantial risk of personal injury or cause other serious or irreparable harm for incidents such as sexual assault, requests for offender protection, extortion, and medical emergencies. Emergency grievances are not eligible for screening or extension. See the note below for exceptions. Emergency grievances require **immediate written notification** to the appropriate authority for initiating an investigation. Investigations are to be completed and returned to the grievance investigator within ten days to ensure the grievance process is completed within the required 40-day time limit.

I. Allegations of Physical Harm From Another Offender/ Non-PREA Related Codes (000, 007, 014).

A. Grievance staff shall contact the unit classification office to obtain a copy of the investigation and the Unit Classification Committee (UCC) docket in cases where an OPI investigation was already conducted, and the staff has not provided the investigation documentation.

B. Grievance staff shall review the unit investigation and the UCC decision. If the UCC recommended a transfer, grievance staff shall obtain a copy of the transfer request and attach it to the OG-01 Grievance Worksheet as support documentation.

C. In the event an offender provides additional information on the Step 2 grievance that may affect the decision of the State Classification Committee (SCC), that information will be forwarded to the assistant director for Classification and Records, who shall provide it to the appropriate SCC member.

D. The program administrator or designee shall review and evaluate the nature of the grievance. If it is determined that the department received a grievance in error, the grievance shall be returned to the CGO with a written explanation, and a signature provided on the OG-01 Grievance Worksheet.

E. Grievance staff shall coordinate an investigation with the unit chief of classification and the unit major, by <u>immediately</u> faxing the narrative portion of the grievance and an OG-01 with the "Office Use Only" section completed, to the unit grievance and classification offices when an OPI investigation <u>was not</u> conducted at Step 1.

F. The unit chief of classification shall document all investigation notes on the OG-01 and return the signed OG-01 to the appropriate regional grievance supervisor to be included with the grievance investigation.

II. Allegations of Staff conduct that places an offender in danger Codes (002, 015).

A. Allegations made at step 2 that were not made or addressed in the step 1:

1. Staff shall immediately contact the warden to coordinate an investigation when an offender alleges that staff either harmed him or threatened to harm him. Any investigation, action, or involvement of the Office of the Inspector General (OIG) for a Step 2 grievance shall be at the discretion of the regional director; however, the offender must be provided a response to the grievance within the established time limits.

III. PREA Codes (008, 009, 010, 011, 012, 013, 016, 017, 019).

A. Staff shall immediately contact the warden and Safe Prisons coordinator to initiate an investigation of allegations that staff or another offender sexually assaulted, sexually abused or sexually harassed an offender, for allegations that were not identified in the Step 1.

IV. Medical Emergency Code (003).

A. Health Services Office of Professional Standards shall investigate the grievance and take appropriate action when an offender alleges a medical emergency in a Step 2 grievance. The offender must be provided a response to the grievance within the established time limits.

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SUBJECT: Step 2 Functional Area Proponent Grievances

PURPOSE: To establish procedures and guidelines for processing Step 2 proponent grievances.

PROCEDURES:
Grievances received at the CGO that are identified as Risk Management (ADA); Chaplaincy (religious issues), MSCP (mail), Access to Courts (ATC), Medical and Transportation shall be forwarded to the appropriate program administrator for processing.

I. Risk Management/ Americans with Disabilities Act (ADA)

A. ADA issues include denial of access to a program, service or activity based on a disability. Step 2 grievances requesting relief through the ADA will be forwarded to the program administrator for risk management for investigation.

II. Chaplaincy/Religious issues

A. Step 2 grievances regarding religious activities, dress, appearance, and religious grooming shall be forwarded to the program administrator for chaplaincy for investigation.

B. Mail Systems Coordinators Panel (MSCP) / Mail issues.

C. Step 2 grievances regarding mail issues will be forwarded to the program administrator for MSCP for investigation.

D. Access to Courts (ATC) / Legal issues.

E. Step 2 grievances regarding legal issues shall be forwarded to the program administrator for Access to Courts for investigation.

F. Transportation (See OGOM, section 6.00).

G. Medical (See OGOM, section 2.09).

SUBJECT: Step 2 Property Grievances

PURPOSE: To establish procedures and guidelines for processing Step 2 property grievances.

PROCEDURES:
When a grievance is determined to involve offender personal property, the grievance staff shall review the grievance to determine what statements and documentation are necessary to process the claim. **An investigation for all property claims at Step 1 and Step 2 shall include a review of all related property documentation.**

I. Investigation Process

A. Claims may be denied on an appeal when the offender refused a fair and equitable offer for settlement at Step 1; however, the fairness and equitability of the offer made during the Step 1 process must be reviewed at Step 2.

B. The Step 2 investigation will either support the Step 1 response, or result in a granted property claim requiring an additional settlement offer or payment directly to the offender's trust fund account.

C. All reasonable steps shall be made to provide the offender an equitable property settlement.

II. The Payment Process

A. The administrator for Offender Grievance or designee shall submit the grievance and supporting documentation to the director of Administrative Review and Risk Management for final approval and signature.

B. The documents necessary for payment will be presented in the following order:

1. Typed Evaluation.

2. Step 2 Grievance, including the Step 1 and all investigative documentation.

3. Payment Processing Request Letter.

C. The Step 2 grievance will be returned to the CGO for final processing after the director of Administrative Review and Risk Management has approved payment.

D. The response shall be typed on the grievance and the grievance shall be closed with the **"R"** outcome code with the appropriate resolution code documented on the OG-01 worksheet and entered into the GR00 Case Tracking System.

E. The grievance and all supporting documentation, including any documents submitted by the offender, shall be copied and retained until the payment process is completed.

F. The completed original Step 2 grievance, including a response and signature, shall be returned to the offender. Any documents submitted by the offender shall also be returned with the Step 2 grievance.

G. Notification Emails shall be sent to the warden and regional director, advising that monetary reimbursement for lost or damaged property was approved.

H. Unit grievance staff shall receive an email with instructions to complete the Monetary Reimbursement Agreement Form (Appendix O).

I. Designated CGO staff shall maintain and monitor the flow of documents to and from the unit to ensure that the completed forms are received in a timely manner.

J. Monetary Reimbursement Agreement Forms returned to the CGO from the unit shall be reviewed for accuracy and completeness by the designated CGO supervisor.

K. Completed Monetary Reimbursement Agreement Forms and the signed Payment Processing Request Letter shall be sent to the TDCJ Accounts Payable Department, Payment Processing, who shall in turn forward the request to the State Comptroller's Office.

L. The grievance shall be closed and no further settlement shall be offered to the offender for the claim if the offender refuses the settlement offer.

M. The State Comptroller's Office shall return a copy of the warrant to the CGO indicating that the money was deposited into the offender's trust fund account.

N. CGO staff shall be instructed to update the GR00 with the amount of reimbursement noted in the comment section.

O. CGO staff shall image all documentation, including the grievance, warrant, and investigative documentation.

P. The State Comptroller's Office may reject the payment request when the offender owes back child support or does not have a social security number. In these cases, the CGO will send a letter to the offender explaining the circumstances. If resolution can only be made by depositing money into the offender's trust fund account, the following response should be typed on the Step 2 grievance:

1. Property Claim # **(enter grievance #)** was reviewed by this office and responsibility for the loss or damage appears to rest with the agency. You were offered and accepted $ **(amount of reimbursement)** as reimbursement for your **(list property items)** as noted by your signature on the Monetary Reimbursement Agreement form dated **(list date)**. The amount of reimbursement was based on the age and fair market value of the item. The funds have been deposited into your trust fund account.

SUBJECT: Step 2 Disciplinary Appeals

PURPOSE: To establish procedures and guidelines for processing Step 2 disciplinary appeals.

PROCEDURES:
The offender grievance program is designated by the TDCJ as the formal appeal mechanism through which an offender can seek another review of the disciplinary hearing results. Grievance staff is responsible for investigating all offender disciplinary appeals requested through the offender grievance program.

I. Step 2 Appeals

A. Central Grievance Office (CGO) analysts shall collect and review all documentation reviewed at Step 1 relevant to the disciplinary case, and request additional information or documents as needed for a thorough review at Step 2. The review will ensure: all due process and procedural requirements were met; the case was fair and consistent with the evidence; the punishment imposed was within the guidelines and consistent with the charge; and the punishment was progressive when considering the seriousness of the charge and the offender's prior disciplinary record.

B. If it is determined that corrections should be made to the disciplinary case, a CGO supervisor shall forward an email to the senior warden and all assistant wardens outlining the reason for modification or overturn, to include the policy and procedure reference that validates the corrective action. Unit administration shall be given five business days from the date of the email to review the case. On the sixth business day, the Request for Disciplinary Case Correction E-Form shall be completed if there is no response from the unit warden, and the grievance will be closed. The email shall be imaged with the grievance for record.

II. E-Form

A. The e-form distribution for a grievance appeal granted at Step 2, or an independent administration review at the region, division or central administrative level shall include the administrator for Offender Grievances, unit Warden, Classification and records, Office of Disciplinary Coordination, Regional Counsel Substitute Supervisor, Disciplinary Hearing officer, Unit Grievance Investigator, and Regional Grievance Supervisor.

B. *See OGOM 8.00 Instructions for completing the Request for disciplinary case correction (E-Form).*

C. A copy of the e-form shall be imaged with the Step 2 grievance and investigative documentation.

D. The Signature Authority for Step 2 Disciplinary Appeals is the administrator for Offender Grievances or designee.

III. Rehearing the Disciplinary Case

A. An offender who successfully appeals a disciplinary hearing may be served with notice of rehearing if the error for which the case was overturned can be corrected. Notice of charges for a rehearing must be served within 30 days from the date the appeal was granted, unless an extension is obtained.

B. A rehearing may not be conducted on an overturned case in which the offender did not receive timely notice of the charges, within 30 days of the date of discovery of the incident unless an extension was granted, or the offender did not receive a disciplinary hearing within the established time limits of 20 days from the date of notice unless an extension is granted.

C. Penalties assessed at a rehearing cannot exceed those imposed at the initial hearing. However, if additional evidence was presented at the rehearing that was not available at the initial hearing, an increase in penalty may be justified.

D. A rehearing shall be conducted according to AD-04.35, "Review of Offender Disciplinary Actions," and other relevant disciplinary policies.