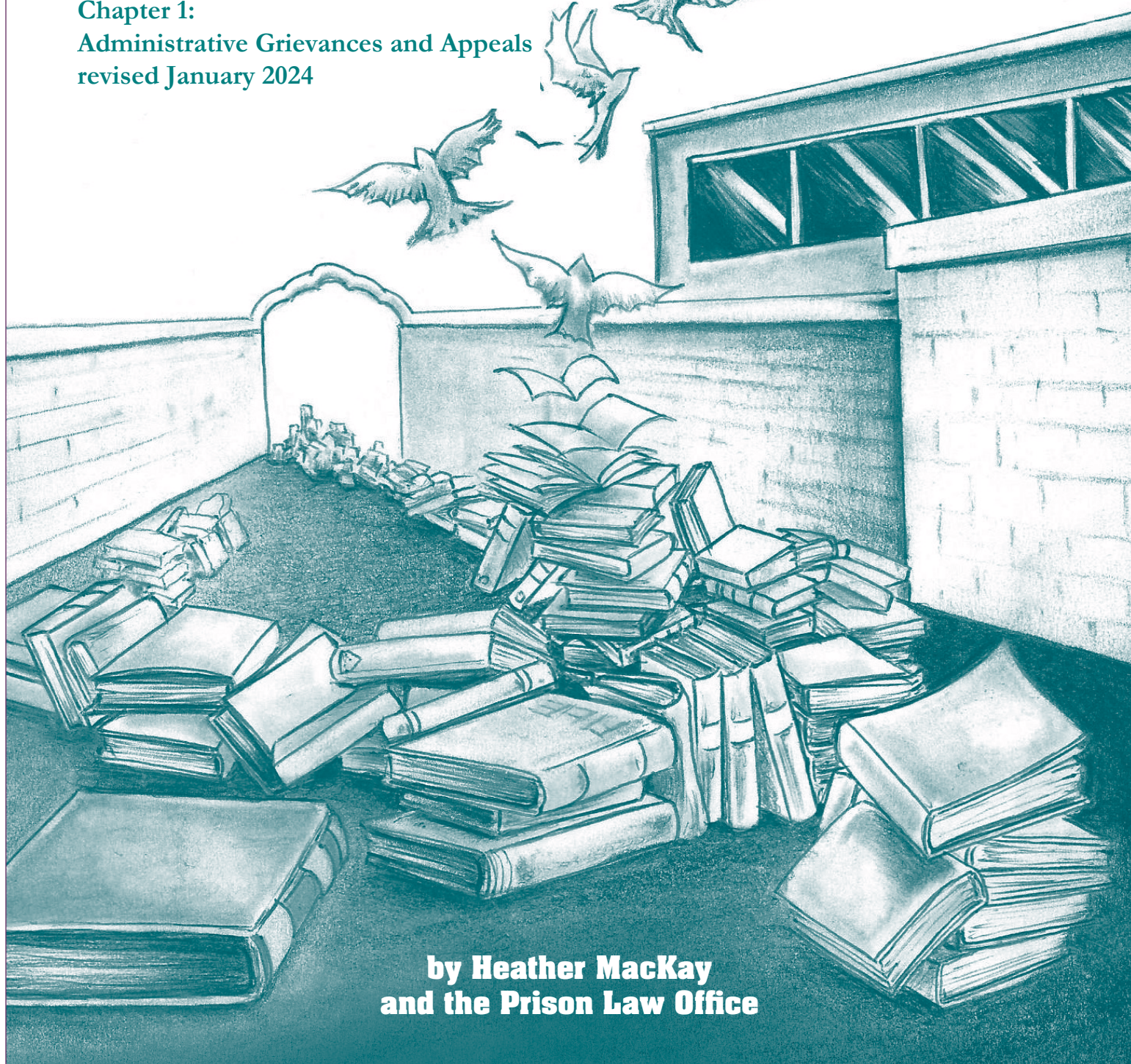


The California Prison and Parole Law Handbook

Chapter 1:
Administrative Grievances and Appeals
revised January 2024



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THE CALIFORNIA PRISON & PAROLE LAW HANDBOOK

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HOW TO USE THIS HANDBOOK

The California Prison and Parole Law Handbook provides people in the custody of the California Department of Corrections and Rehabilitation (CDCR), and their attorneys and advocates, with a summary of the laws and policies governing prisons and parole, as well as practical guidance on procedures for enforcing legal rights. The *Handbook* chapters cover a broad variety of topics, and the Appendices contain sample CDCR forms, legal forms, and pleadings and resource lists. Anyone with limited legal knowledge may want to start by reading Chapter 19, which gives an overview of the structure of the legal system and discusses basic legal research and writing skills.

As of 2024, we are working on updating the *Handbook* chapter by chapter. Each updated chapter will identify the date on which it was revised. If you are in CDCR, you can find the most recent version of the *Handbook* chapters on CDCR's electronic tablets and kiosks under Law Library/California/Secondary Sources/The California Prison and Parole Law Handbook. If you have internet access, you can view, download, and print the *Handbook* under the Resources tab at www.prisonlaw.com. We currently do not know if or when we might publish paper copies of the updated *Handbook*.

Users of the Handbook should take heed that the laws change frequently and are subject to differing interpretations. If you use the information in the Handbook, it is your responsibility to make sure that the law has not changed and that the provisions cited are applicable to your situation.

In addition to the *Handbook*, Prison Law Office distributes free information packets on many topics. Sometimes these packets are updated more quickly than the *Handbook* chapters or cover topics not discussed in the *Handbook*. You can ask for one or more of these packets by sending a letter to Prison Law Office with a description of your issue or the information you are seeking. If you have internet access, most of the packets are also on the Resources page at www.prisonlaw.com.

* * *

Anyone in CDCR custody who wants to understand and protect their rights should become familiar with CDCR's regulations and operational procedures. CDCR's regulations for adult facilities and parole are published in Title 15 of the California Code of Regulations starting at § 3000. Board of Parole Hearings regulations are in Title 15 of the Code of Regulations starting at § 2000. CDCR also has a Department Operations Manual (the "DOM") with specific procedures for carrying out the policies in the regulations; however, some sections of the DOM are outdated and no longer accurately describe state law or CDCR policy. Title 15, the DOM, and other CDCR policy memos and informational bulletins are available on CDCR tablets and kiosks and in prison law libraries. People with internet access can find Title 15, the DOM, and other information on CDCR's website at www.cdcr.ca.gov.

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How to Use This Handbook

CHAPTER 1

ADMINISTRATIVE GRIEVANCES AND APPEALS

(revised January 2024)

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1.1 Introduction

A person in prison or on parole can challenge or complain about the actions of a prison or parole official or a prison or parole policy by filing an "administrative grievance" with the California Department of Corrections and Rehabilitation (CDCR). CDCR's administrative grievance processes require filling out a form, submitting it to a prison or parole grievance office and then, if necessary, re-submitting the form for review by the CDCR Headquarters appeal office. The administrative grievance rules were significantly revised in 2022.

An administrative grievance should almost always be the first step in trying to resolve a prison or parole problem. Staff might grant the request or provide a good explanation for denying the request. At the very least, the administrative grievance will document the problem and the person's attempts to solve it. Furthermore, a person usually must complete the administrative grievance process before a court will hear any type of case complaining about a CDCR policy or action.

This chapter discusses the rights of people to file administrative grievances and the requirements that they exhaust administrative remedies before filing court actions. The chapter also discusses the CDCR administrative grievance and appeal process that is used for most types of issues, including special provisions for grievances about staff misconduct and about sexual abuse by staff or other incarcerated people. Other sections discuss the separate CDCR grievance forms and procedures for health care issues and disability accommodations. The chapter then discusses the very limited grievance procedures for issues concerning actions by the Board of Parole Hearings (BPH). The final sections of the chapter discuss other processes that people in prison and their advocates can use to raise concerns about policies, conditions, or staff misconduct. In addition, other chapters on specific topics contain further details on CDCR grievances and any other administrative complaints related to those matters.

1.2 Rights to File Grievances

CDCR regulations guarantee the right to file an administrative grievance “to dispute a policy, decision, action, condition, or omission by the Department or departmental staff,” subject to the time limits and procedures set by the regulations.¹ If a grievance or appeal is lost, improperly rejected, or mishandled, or if response timelines are grossly exceeded, the person could attempt to proceed with a court action on the original issue, asking that further efforts to exhaust administrative remedies be excused because administrative remedies are effectively unavailable.² Alternatively, the person could file a state petition for writ of mandate seeking enforcement of CDCR’s duty to process the appeal in accordance with its regulations.³

Courts have held that there is no federal or state constitutional due process right to any particular prison grievance procedures, denying claims that faulty grievance procedures or processing violate due process.⁴ However, in at least one case, a court found a violation of the constitutional right to due process based on parole officials’ pattern of failing to process grievances in a timely manner.⁵

1.3 Rights to Be Free From Retaliation for Filing Grievances

CDCR regulations state that “staff shall not retaliate” against a person for submitting a grievance or appeal.⁶ In addition, the U.S. Constitution’s First Amendment rights to petition the government for redress of grievances and to have access to the courts forbid retaliation against a person for filing administrative grievances. To prove that retaliation violated the Constitution, a person must show that prison officials took an adverse action that did not reasonably further a legitimate correctional goal, the action was taken because the person exercised or wanted to exercise

¹ Cal. Code Regs., tit. 15, § 3481(a); see also Cal. Code Regs., tit. 15, § 3999.226 (right to file health care grievances). CDCR’s grievance process cannot be used to challenge decisions or policies of other government agencies or officials. Cal. Code Regs., tit. 15, § 3481(e).

² *Sheets v. Terhune* (E.D. Cal. 2006) 421 F.Supp.2d 1304, 1307-1308; *Foster v. Sexton* (2021) 61 Cal.App.5th 998, 1032 [276 Cal.Rptr.3d 172].

³ *Villery v. California Dept. of Corrections and Rehabilitation* (2016) 246 Cal.App.4th 407, 410 [200 Cal.Rptr.3d 896]; *Wright v. California* (2004) 122 Cal.App.4th 659, 667 [19 Cal.Rptr.3d 92].

⁴ *Mann v. Adams* (9th Cir. 1988) 855 F.2d 639, 640; *Stewart v. Block* (C.D. Cal. 1996) 938 F.Supp. 582, 588; *Ramirez v. Galaza* (9th Cir. 2003) 334 F.3d 850, 860; *In re Williams* (2015) 241 Cal.App.4th 738, 744-745 [193 Cal.Rptr.3d 691].

⁵ See *In re Woodham* (2001) 95 Cal.App.4th 438 [115 Cal.Rptr.2d 431].

⁶ Cal. Code Regs., tit. 15, § 3481(d); see also Cal. Code Regs., tit. 15, § 3999.226(e) (forbidding retaliation for filing health care grievances).

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their right to file a grievance, and the action “chilled” the person’s exercise of their rights.⁷ A person’s speech may be “chilled” even if they were not totally “silenced” and kept trying to pursue their grievance.⁸ If the adverse action was a threat, the person need not show that the threat was of a specific type or that the threat was carried out.⁹

1.4 Rights to Assistance With Grievances

People who need assistance with filing an administrative grievance or appeal can ask staff for help. CDCR regulations require staff to provide assistance to people who need help due to a disability, no or low reading skills, or lack of English language skills.¹⁰ In addition, court settlements under the Americans with Disabilities Act (ADA) require CDCR to provide people who have physical, developmental, or learning disabilities with any assistance they need to prepare or file an administrative grievance or appeal or to understand the responses.¹¹

There is no right to be represented by a lawyer or advocate for an administrative grievance or appeal. However, a lawyer or advocate can help with filling out the grievance and appeal forms, getting any supporting documents, and explaining how to submit the forms.

A lawyer or advocate also can try to contact the prison’s Warden, Litigation Coordinator, or other staff to explain the problem and request action. Contact numbers for Litigation Coordinators are on the CDCR website at <https://www.cdcr.ca.gov/ombuds/ombuds/litigation>, and the names of Wardens can also be found on the CDCR website for each prison. *Such efforts are not a substitute for the formal administrative grievance and appeals processes*, but they may help draw attention to a problem, especially in situations where failure to act might cause irreparable harm. Also, a lawyer’s or advocate’s request may help support any future lawsuit claim that prison officials had fair notice of the problem and an opportunity to address it.

⁷ *Rhodes v. Robinson* (9th Cir. 2005) 408 F.3d 559, 567-568. Courts have found that many different types of adverse actions could be retaliation. (See, e.g., *Shepard v. Quillen* (9th Cir. 2016) 840 F.3d 686, 688-689 (placement in administrative segregation); *Watson v. Carter* (9th Cir. 2012) 668 F.3d 1108 (filing false disciplinary charge, threatening assault, denying a meal); *Silva v. DiVittorio* (9th Cir. 2011) 658 F.3d 1090, 1104-1105 (seizing and refusing to return legal files); *Austin v. Terhune* (9th Cir. 2004) 367 F.3d 1167, 1170-1171 (filing false disciplinary charge); *Hines v. Gomez* (9th Cir. 1997) 108 F.3d 265, 267 (filing false rule violation charge, even where punishment was minimal); *Valandingham v. Bojorquez* (9th Cir. 1989) 866 F.2d 1135, 1138 (labelling a person a “snitch” and thereby exposing them to potential harm); *Rizzo v. Dawson* (9th Cir. 1985) 778 F.2d 527, 531-532 (un-assigning person from vocation course and transferring them); but see *Hurd v. Garcia* (S.D. Cal. 2006) 454 F.Supp.2d 1032, 1049-1050 (transfer to a different prison not retaliation where prison officials cited safety reasons); see also *Bradley v. Hall* (9th Cir. 1995) 64 F.3d 1276, 1280-1281 (regulations may properly prohibit hostile, sexual, or abusive language, but officials may not punish person for using merely disrespectful language in grievance).

⁸ *Rhodes v. Robinson* (9th Cir. 2005) 408 F.3d 559, 568-569.

⁹ *Brodheim v. Cry* (9th Cir. 2009) 584 F.3d 1262, 1269-1271 (person stated retaliation claim where appeals coordinator wrote on rejection notice that person should be “careful” about what they put on grievance forms).

¹⁰ Cal. Code Regs., tit. 15, § 3481(g).

¹¹ Americans with Disabilities Act, 42 U.S.C. § 12131 et seq.; *Clark v. California* (N.D. Cal. Mar. 1, 2002) No. C96-1486, Remedial Plan, § II.B.3.b.3; *Armstrong v. Davis* (N.D. Cal. Jan. 3, 2001) No. C94-2307, Remedial Plan, § II.E.2; Cal. Code Regs., tit. 15, § 3999.226(b) (effective communication for health care grievances).

EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIREMENTS

1.5 Overview of Exhaustion of Administrative Remedies Requirements

As discussed in the following sections ([§ 1.6-§ 1.9](#)), courts usually will not hear a formal legal challenge to prison or parole policies, conditions, or actions unless the person who is in prison or on parole first completes any available administrative grievance process. This is called an “exhaustion of administrative remedies” requirement. Because of this requirement, a court is likely to dismiss a prison- or parole-related lawsuit unless the person has pursued an administrative grievance about the issues through the highest available level of review. However, in some circumstances a court can allow a person to proceed with a lawsuit without exhausting administrative remedies.

There are several reasons for this requirement. CDCR has the responsibility to investigate and correct problems with its prison and parole systems. Also, requiring exhaustion conserves judicial resources, because an administrative grievance that resolves an issue eliminates the need for a court to get involved. Further, an administrative grievance can clarify issues by establishing the underlying facts or demonstrating that officials were made aware of the problem but failed to correct it.¹²

CDCR has grievance processes for prison and parole issues involving CDCR rules, policies, and actions by CDCR staff. The CDCR grievance and appeals rules state what sorts of grievance and appeal responses exhaust remedies.¹³ BPH has no general administrative grievance process, so in most situations a person does not have to file any sort of grievance before filing a court action challenging a denial of parole suitability. The exception is that BPH does have grievance processes for requesting disability accommodations, challenging factual errors in risk assessments, challenging findings that a person is ineligible or unsuitable for Proposition 57 early parole, and challenging findings that a person is ineligible for youthful offender parole consideration.

There are no CDCR administrative remedies to exhaust if CDCR does not have authority over the matter at issue. For example, if a criminal court did not grant the proper number of pre-sentence credits or imposed an illegal sentence, a person does not need to file an administrative grievance because CDCR has no power to award pre-sentence credits or change a sentence. Likewise, a person does not need to use CDCR’s administrative grievance process if they want to file a legal action against other state officials or agencies; however, the person should attempt to exhaust any grievance procedures that the other agency has in effect.

Details about the specific exhaustion requirements and exceptions to the requirements for common types of court cases are discussed in [§ 1.6](#) (state habeas corpus or mandate), [§ 1.7](#) (federal habeas corpus), [§ 1.8](#) (federal civil rights lawsuits), and [§ 1.9](#) (state tort and small claims lawsuits).

Even if there might be an applicable exception to an exhaustion requirement, a person still should make good efforts to start the administrative grievance process as soon as possible. If the person is concerned that they might suffer immediate and irreparable harm, they should request

¹² *Woodford v. Ngo* (2006) 548 U.S. 81, 89 [126 S.Ct. 2378; 165 L.Ed.2d 368]; *In re Muszalski* (1975) 52 Cal.App.3d 500, 505-506 [125 Cal.Rptr. 286].

¹³ Cal. Code Regs., tit. 15, § 3483(l); Cal. Code Regs., tit. 15, § 3485(l).

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urgent action on their grievance. At the very least, the person should file an administrative grievance at the same time they send their petition or complaint to the court. Telling the court that an administrative grievance has been filed will show that the person really is trying to resolve the problem. Also, a person who already has an administrative grievance in the system will be able to get back into court more quickly if the court refuses to excuse their failure to exhaust administrative remedies.

A person who files a court action before completing the administrative grievance appeal process should explain why the court should make an exception to the exhaustion requirement. They should also describe any other efforts that have been made to inform prison or parole officials about the problem and should attach any documents that would support an argument that the court should hear the case.

1.6 Exhaustion of Administrative Remedies for State Petitions for Writ of Habeas Corpus or Mandate

People in prison or on parole in California commonly file state court petitions for writ of habeas corpus to challenge prison or parole conditions or actions by prison or parole officials (see Chapter 15). A court generally will not consider a state habeas petition unless the person has completed the appropriate administrative grievance and appeal process through the highest level of review.¹⁴ Likewise, a person usually must complete an agency's administrative grievance and appeal process before filing a state court petition for a writ of mandate (see Chapter 15).¹⁵

There are circumstances in which courts can and should make exceptions to the exhaustion of administrative remedies requirement for state court habeas and mandate petitions. "[T]he doctrine of exhaustion of administrative remedies has not hardened into inflexible dogma. [Citation.] It contains its own exceptions"¹⁶ Commonly recognized exceptions include the following:

- ◆ No administrative remedy is available or the administrative process is inadequate to address the issue.¹⁷ An example of this is if prison or parole staff have lost, improperly rejected, or mishandled a person's grievance or appeal, or have grossly exceeded the grievance or appeal response timelines.¹⁸
- ◆ Seeking an administrative remedy would be futile because CDCR's action is consistent with a clear policy or rule or because CDCR has consistently defended the policy or rule

¹⁴ *In re Strick* (1983) 148 Cal.App.3d 906, 911 [196 Cal.Rptr. 293]; *In re Dexter* (1979) 25 Cal.3d 921, 925 [160 Cal.Rptr. 118]; *In re Muszalski* (1975) 52 Cal.App.3d 500, 503-505, 508 [125 Cal.Rptr. 286].

¹⁵ *Sail'er Inn, Inc. v. Kirby* (1971) 5 Cal.3d 1, 7 [95 Cal.Rptr. 329].

¹⁶ *Ogo Associates v. City of Torrance* (1974) 37 Cal.App.3d 830, 834 [112 Cal.Rptr. 761].

¹⁷ *Glendale City Employees' Assn., Inc. v. City of Glendale* (1975) 15 Cal.3d 328, 342-343 [124 Cal.Rptr. 513] (issue fell outside scope of matters covered by grievance procedure); *In re Hudson* (2006) 143 Cal.App.4th 1, 7-8 [49 Cal.Rptr.3d 74] (regional parole administrator did not respond to grievance and regulations did not specify what if any further action could be taken); *In re Mitchell* (2000) 81 Cal.App.4th 653, 655-656 [97 Cal.Rptr.2d 41] (interpretation of prison credits statute was an issue for the courts, further noting that CDCR had denied prior grievances by stating that it had no authority to address the issue); *In re Strick* (1983) 148 Cal.App.3d 906, 911 (similar).

¹⁸ *Foster v. Sexton* (2021) 61 Cal.App.5th 998, 1032 [276 Cal.Rptr.3d 172].

against similar challenges.¹⁹ However, this exception does not apply if it is reasonably possible the agency will change its policy or make an exception based on the facts of a particular case.²⁰

- ◆ Taking the time to exhaust administrative remedies would cause the person to suffer an unreasonable risk of irreparable harm.²¹ Risk of irreparable harm might exist where medical or safety concerns are causing great pain or high risk of serious injury. The same might be true if a person is being held past their lawful release date. However, the mere fact that a constitutional right is being violated does not necessarily amount to irreparable harm.²²

1.7 Exhaustion of Administrative Remedies for Federal Petitions for Writ of Habeas Corpus

People in prison or on parole in California can use federal petitions for writ of habeas corpus to challenge the legality or duration of their incarceration or supervision. Usually, such cases involve the lawfulness of a state court conviction or sentence. Occasionally people can file federal habeas corpus petitions challenging actions of prison or parole staff, such as credit forfeitures. Before filing a federal habeas petition, a person must present their issues to every level of the state courts. (See Chapter 16.)

A person who files a federal habeas corpus petition challenging a criminal conviction or sentence or a parole revocation does not need to exhaust any administrative remedies. This is because the action being challenged was made by a court, not by prison or parole officials.

A person who is filing a federal habeas petition challenging an action by prison or parole officials will have had to exhaust administrative remedies (or have been granted an exception).²³ This is because the person must have already presented their claims to the highest level of the state courts, usually through a state court habeas corpus petition, which will have required either exhaustion of administrative remedies or grant of an exception to the exhaustion requirement (see § 1.6).²⁴

¹⁹ *In re Trejo* (2017) 10 Cal.App.5th 972, 979 [216 Cal.Rptr.3d 855]; *In re Mitchell* (2000) 81 Cal.App.4th 653, 655-656 [97 Cal.Rptr.2d 41]; *In re Locks* (2000) 79 Cal.App.4th 890, 893-894 [94 Cal.Rptr.2d 495], abrogated on other grounds by *In re Qawi* (2004) 32 Cal.4th 1 [7 Cal.Rptr.3d 780]; *In re Arias* (1986) 42 Cal.3d 667, 678-679 [230 Cal.Rptr. 505], superseded by statute on other grounds, see *Thompson v. California Dept. of Corrections* (2001) 25 Cal.4th 117, 130 [105 Cal.Rptr.2d 46]; *In re Thompson* (1985) 172 Cal.App.3d 256, 262-263 [218 Cal.Rptr. 192]; *In re Reina* (1985) 171 Cal.App.3d 638, 642 [217 Cal.Rptr. 535]; *In re Dexter* (1979) 25 Cal.3d 921, 925 [160 Cal.Rptr. 118].

²⁰ *Bockover v. Perko* (1994) 28 Cal.App.4th 479, 491 [34 Cal.Rptr.2d 423]; *In re Serna* (1978) 76 Cal.App.3d 1010, 1014 [143 Cal.Rptr. 350].

²¹ *Abelleira v. District Court of Appeal* (1941) 17 Cal.2d 280, 296-297; *Ogo Associates v. City of Torrance* (1974) 37 Cal.App.3d 830, 834 [112 Cal.Rptr. 761].

²² See *In re Serna* (1978) 76 Cal.App.3d 1010, 1014-1015 [143 Cal.Rptr. 350].

²³ See, e.g., *Redd v. McGrath* (9th Cir. 2003) 343 F.3d 1077, 1079 (considering whether federal habeas statute of limitations started running on date that parole board denied administrative grievance under then-existing administrative appeal process).

²⁴ 28 U.S.C. § 2254(b).

1.8 Exhaustion of Administrative Remedies for Federal Civil Rights (§ 1983) Lawsuits

People in prison or on parole may file federal civil rights lawsuits seeking injunctions or money damages for violations of their federal rights. (See Chapter 17.) The Prison Litigation Reform Act (PLRA) requires a “prisoner confined in any jail, prison, or other correctional facility” to exhaust all “available” administrative remedies before filing a federal civil rights complaint pursuant to 42 U.S.C. § 1983 or any other federal lawsuit “with respect to prison conditions.”²⁵ Since the PLRA exhaustion requirement applies only to people in a correctional facility, it does not apply to people serving civil commitments in state hospitals²⁶ or to people who file lawsuits who have been released from prison or jail, even if they are on parole, post-release community supervision (PRCS), or probation.²⁷

The PLRA exhaustion requirement is strict, and courts do not have authority to make exceptions. Moreover, the PLRA requires exhaustion of administrative remedies even if a person is seeking money damages and money damages cannot be granted through the prison grievance system.²⁸ However, courts can and should find that administrative remedies are effectively “unavailable” in some situations. First, an administrative remedy is not available if the grievance procedure operates as a dead end, with prison staff unable or consistently unwilling to provide any relief. Second, an administrative remedy is not available if it is, practically speaking, incapable of use because it is so confusing or complex that no ordinary person can use it. Third, an administrative remedy is not available if prison staff stop people from using it by machination, misrepresentation, or intimidation.²⁹

²⁵ 42 U.S.C. § 1997e(a); 42 U.S.C. § 1997e(h) (defining “prisoner”); see *Porter v. Nussle* (2002) 534 U.S. 516, 520 [122 S.Ct. 983; 152 L.Ed.2d 12] (under the PLRA, “prison conditions” cases include lawsuits alleging that officers used excessive force). Note that a person who did not exhaust administrative remedies before filing a federal civil rights complaint may be able to proceed with their case if they fully exhaust administrative remedies before being allowed to file an amended complaint. *Saddozai v. Davis* (9th Cir. 2022) 35 F.4th 705, 708.

²⁶ *Page v. Torrey* (9th Cir. 2000) 201 F.3d 1136 (SVP); *Mullen v. Surtshin* (N.D. Cal 2008) 590 F. Supp.2d 1233 (NGI).

²⁷ 28 U.S.C. § 1997e(h); *Talamantes v. Leyva* (9th Cir. 2009) 575 F.3d 1021, 1023-1024; *Kerr v. Puckett* (7th Cir. 1998) 138 F.3d 321, 323.

²⁸ *Booth v. Churner* (2001) 532 U.S. 731, 734 [121 S.Ct. 1819; 149 L.Ed.2d 958].

²⁹ *Ross v. Blake* (2016) 578 U.S. 632 [136 S.Ct. 1850; 195 L.Ed.2d 117]; *McBride v. Lopez* (9th Cir. 2015) 807 F.3d 982 (to show unavailability due to intimidation, person must have actually and reasonably believed officers would retaliate for filing grievance); *Rodriguez v. County of Los Angeles* (9th Cir. 2018) 891 F.3d 776, 792-794 (real and reasonable fear of retaliation may make administrative remedies effectively unavailable); see, e.g., *Andres v. Marshall* (9th Cir. 2017) 854 F.3d 1103 (no remedy available where prison staff failed to respond to timely grievance, and only did so belatedly after person obtained state habeas order requiring processing of the grievance); *Nunez v. Duncan* (9th Cir. 2010) 591 F.3d 1217 (no available administrative remedy where person made diligent efforts to submit grievance, but was precluded from doing so by officials providing misinformation about relevant regulations and failing to respond to requests for information about the policy); *Marella v. Terhune* (9th Cir. 2009) 568 F.3d 1024, 1027 (no available remedy where person was unable to obtain grievance form before the grievance deadline, and then filed a grievance that was rejected as untimely); *Albino v. Baca* (9th Cir. 2014) 747 F.3d 1162, 1175-1176 (no available remedy where person had never been informed of the jail’s grievance process and had never seen a grievance form or box); *Fordley v. Lizarraga* (9th Cir. 2021) 18 F.4th 344 (no available remedy where prison staff failed to track or respond substantively to grievance, despite being put on notice that person was reporting imminent risk to health and safety); *Eaton v. Blewett* (9th Cir. 2022) 50 F.4th 1240 (no available remedy where prison staff erroneously confiscated form needed to file bankruptcy claim and person was barred from complaining by rule limiting them to no more than four pending grievances at a time).

The courts have addressed questions about what an administrative grievance must say to satisfy the PLRA exhaustion requirement. Generally, the prison system's grievance rules govern how specific the administrative appeal must be.³⁰ A grievance does not have to set forth legal theories or cover each element of the legal claim, but it must include enough information to put prison staff on notice of what happened, the nature of the issue, and the relief being sought.³¹ A grievance does not necessarily have to state the names of all the prison staff responsible for the matter.³² However, a court may dismiss some or all of a case if the person's grievances have not fairly presented the claims that are being made against all of the defendants.³³

Failure to meet the grievance timelines and other requirements may make it impossible for a person to fulfill the PLRA exhaustion requirement. For example, a person whose grievance is screened out as untimely, and who is not successful in challenging the screen-out decision, fails to exhaust administrative remedies and may not be able to proceed with a federal civil rights suit.³⁴ On the other hand, if a person fails to comply with a grievance procedure, but prison officials ignore the procedural problem and decide the issues presented in the grievance, the person can proceed with a lawsuit.³⁵

Another question is how far a person must take the administrative grievance if the relief sought is granted fully or partly at a lower level of review. A person must continue to pursue an administrative grievance to the highest level of review if there is any possibility of gaining further relief. Thus, if the grievance is only partly granted or if the person is instructed to submit separate grievances for additional issues, then the person will need to submit an appeal of the grievance response or submit additional grievances.³⁶ If a grievance is fully granted, the person has exhausted administrative remedies and need not submit an appeal of the grievance.³⁷ However, if prison staff assert that the person will be provided with a remedy, but then fail to follow through with the promised action, the

³⁰ *Jones v. Bock* (2007) 549 U.S. 199, 218 [127 S.Ct. 91; 166 L.Ed.2d 798].

³¹ *Reyes v. Smith* (9th Cir. 2016) 810 F.3d 654, 659 (grievance notified prison officials of allegation of wrongful denial of pain medication); *Wilkerson v. Wheeler* (9th Cir. 2014) 772 F.3d 839;838-840 (grievance regarding use of force was sufficiently specific); *Morton v. Hall* (9th Cir. 2010) 599 F.3d 942, 946 (grievance about denial of visitation did not exhaust claim that prison staff caused an assault by another person in prison); *Griffin v. Arpaio* (9th Cir. 2009) 557 F.3d 1117, 1120-1121 (failure to exhaust where administrative appeal requested a ladder to help person in prison get into top bunk, but lawsuit claimed that staff failed to comply with order to provide a lower bunk); *Gomez v. Winslow* (N.D. Cal. 2001) 177 F.Supp.2d 977, 981-982 (general grievance about inadequate medical care may satisfy exhaustion requirement as to specific medical care claims if it provides sufficient notice of the complaints); see also Cal. Code Regs., tit. 15, § 3084.2(a) and Cal. Code Regs., tit. 15, § 3084.3(b)-(c) (CDCR grievance requirements).

³² *Jones v. Bock* (2007) 549 U.S. 199, 218-219 [127 S.Ct. 910; 166 L.Ed.2d 798]; *Sapp v. Kimbrell* (9th Cir. 2010) 623 F.3d 813, 824; *Butler v. Adams* (9th Cir. 2005) 397 F.3d 1181, 1183; *Irrin v. Zamora* (S.D. Cal. 2001) 161 F.Supp.2d 1125, 1134-1135.

³³ *Ornelas v. Giurbino* (S.D. Cal. 2005) 358 F.Supp.2d 955, 959-961; *Nichols v. Logan* (S.D. Cal. 2004) 355 F.Supp.2d 1155.

³⁴ *Woodford v. Ngo* (2006) 548 U.S. 81 [126 S.Ct. 2378, 2386; 165 L.Ed.2d 368]; *Sapp v. Kimbrell* (9th Cir. 2010) 623 F.3d 813; *Harvey v. Jordan* (9th Cir. 2010) 605 F.3d 681; *Ngo v. Woodford* (9th Cir. 2008) 539 F.3d 1108.

³⁵ *Reyes v. Smith* (9th Cir. 2016) 810 F.3d 654, 657-658.

³⁶ *Brown v. Valoff* (9th Cir. 2005) 422 F.3d 926; *Hazleton v. Alameida* (C.D. Cal. 2005) 358 F.Supp.2d 926.

³⁷ *Brady v. Attygala* (C.D. Cal. 2002) 196 F.Supp.2d 1016, 1134-1135; *Gomez v. Winslow* (N.D. Cal. 2001) 177 F.Supp.2d 977, 984-985.

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person most likely must submit a CDCR Form 602-3 “Request to Implement Remedies” under CDCR’s current rules (see [§ 1.17](#)).³⁸

1.9 Exhaustion of Administrative Remedies for State Civil Tort or Small Claims Lawsuits

People in prison or on parole may file civil tort lawsuits or small claims lawsuits in state court seeking money damages from prison or parole officials. (See Chapter 18.) They must exhaust administrative remedies for each claim raised prior to bringing such a lawsuit, and courts do not have authority to make exceptions.³⁹ The person must exhaust the grievance process even if the defendant is an independent contractor who provides services to the prison system.⁴⁰ They also must complete the grievance process even if they are seeking money damages, which prison officials will not grant through the grievance process.⁴¹

In addition to completing the CDCR administrative grievance process, any person who is bringing a state tort suit or small claims action against state officials for money damages must file a Government Claim Form prior to filing the lawsuit. Government Claim Form deadlines and procedures are discussed in Chapter 18.

One court has suggested that where a grievance response is delayed, the person should file a petition for writ of mandate to force prison officials to respond to the grievance, rather than filing a lawsuit on an unexhausted money damages claim.⁴² Otherwise, there is no case law on whether failure to exhaust administrative remedies may sometimes be excused in state civil cases filed against prison or parole officials. However, in other types of state civil cases, courts have recognized potential exceptions to exhaustion requirements.⁴³

³⁸ But see *Harvey v. Jordan* (9th Cir. 2010) 605 F.3d 681 (under former rules, person did not need to submit further grievances when staff failed to provide a promised remedy).

³⁹ *Wright v. California* (2004) 122 Cal.App.4th 659, 664-665 [19 Cal.Rptr.3d 92]; *Parthemore v. Col* (2013) 221 Cal.App.4th 1372, 1381 [165 Cal.Rptr.3d 367]; Code of Civil Procedure § 116.220(e) (small claims).

⁴⁰ *Parthemore v. Col* (2013) 221 Cal.App.4th 1372, 1381-1383 [165 Cal.Rptr.3d 367].

⁴¹ *Wright v. California* (2004) 122 Cal.App.4th 659, 669-670 [19 Cal.Rptr.3d 92].

⁴² *Wright v. California* (2004) 122 Cal.App.4th 659, 667-668 [19 Cal.Rptr.3d 92].

⁴³ *Howard v. San Diego* (2010) 184 Cal.App.4th 1422 [109 Cal.Rptr.3d 647] (allowing case to proceed where there were factual issues about whether further attempts to gain relief would be futile, after agency had directed people to seek relief through legislative process); *White v. California* (1987) 195 Cal.App.3d 452, 464 [240 Cal.Rptr. 732] (no exhaustion required where there was no available administrative remedy for systemic exclusion from education program for hospital patient with developmental disabilities).

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) GRIEVANCE AND APPEAL PROCESSES

1.10 Overview of CDCR Grievances and Appeals

CDCR regulations create an administrative grievance and appeal process.⁴⁴ The main features of the system are:

- ◆ Standard forms for submitting most types of administrative grievances and appeals. -- CDCR Forms 602-1, 602-2, and 602-3. Note that there are some special processing rules for grievances concerning staff misconduct and grievances concerning sexual abuse by either staff or other incarcerated people.
- ◆ Special forms and processes for medical, dental, or mental health care issues and complaints about misconduct by health care staff (CDCR Form 602 HC, discussed in [§ 1.19-§ 1.20](#)) and for requests for disability accommodations (CDCR Form 1824, discussed in [§ 1.21](#)).
- ◆ Although BPH does not have a general grievance process, there are forms for seeking disability accommodations during BPH proceedings (BPH Forms 1073/1074, discussed in [§ 1.24](#)) and procedures for appealing a few other types of BPH actions (discussed in [§ 1.25-§ 1.28](#)).
- ◆ Set timelines for filing most types of grievances and appeals, and for staff responses.
- ◆ Multi-level reviews, usually first by an official at the prison or parole region and then by an official at CDCR Headquarters in Sacramento.
- ◆ An office of grievances for each prison and parole region and an office of appeals at CDCR Headquarters that are responsible for tracking and processing.

Note that a person may want to try to resolve a problem informally by talking to a staff person or sending them a request for interview or services. However, a person does not have to make any efforts to address a problem informally before they file a formal administrative grievance. *Moreover, any time taken for informal actions does not stop the clock for the deadline to file an administrative grievance or appeal.*⁴⁵ *Also, informal requests do not exhaust administrative remedies for purposes of bringing a court action.*

⁴⁴ Cal. Code Regs., tit. 15, § 3480-§ 3585.

⁴⁵ Cal. Code Regs., tit. 15, § 3481(c); see also *Fuqua v. Ryan* (2018) 890 F.3d 838, 846-847 (sending letters to work supervisors asking not to be scheduled for work on religious holiday did not exhaust administrative remedies regarding religious rights); *Upshaw v. Superior Court* (2018) 22 Cal.App.5th 489, 506-507 [231 Cal.Rptr.3d 505] (raising safety issue in conversation with deputy and efforts by attorney to contact sheriff's staff did not exhaust administrative remedies for seeking a court order to be transferred to another jail).

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1.11 Deadlines for Submitting a CDCR Form 602-1 Grievance

The deadline for submitting a CDCR Form 602-1 Grievance is 60 calendar days after the action or decision that is being appealed or after the person first knows (or reasonably should know) about the action or decision.⁴⁶ The one exception is that there is no time limit for filing a grievance about staff sexual abuse or sexual abuse by another incarcerated person.⁴⁷ Also, the 60-day deadline may be extended while the person is out to court, at an outside hospital, temporarily in a medical or mental health crisis bed, or actively fighting fires.⁴⁸

Any time taken for informal actions does not stop the clock for the deadline to submit an administrative grievance,⁴⁹ and if a person does not meet the submission deadline, the grievance can be rejected.⁵⁰ If there is any possible dispute as to whether the deadline has been met, the person should submit the administrative appeal as soon as possible, along with an explanation of why they were not able to submit it earlier.

1.12 Submitting a CDCR Form 602-1 Grievance

Administrative grievances for most types of CDCR prison and parole issues should be submitted on a green CDCR Form 602-1 Grievance (see Appendix 1-A). These forms are supposed to be available in all CDCR housing units, and libraries, and parole offices.⁵¹

The person who is filling out the grievance form should use plain language and write clearly. The person should include the following information:

- ◆ A description of the problem or issue. All issues that are related to each other should be included, so that the person does not risk waiving (giving up) the right to raise an issue in the future. If the person believes their life, health, or safety are in immediate and serious danger, they should state that on the first line of the form, emphasized with underlining or capital letters.
- ◆ When and where the problem happened.
- ◆ Who was involved and what they did.
- ◆ The names or other identifying information for people who can support the complaint.

⁴⁶ Cal. Code Regs., tit. 15, § 3482(b); see *In re Lambirth* (2016) 5 Cal.App.5th 915 [211 Cal.Rptr.3d 104] (deadline is for submission of grievance form to a collection box or staff person, not receipt by the grievance office); *Ngo v. Woodford* (9th Cir. 2008) 539 F.3d 1108, 1109-1110 (timeline started when classification committee notified person they were barred from participating in special programs, rather than date they were denied entry into specific program).

⁴⁷ Cal. Code Regs., tit. 15, § 3084(c)(1), (d)(1).

⁴⁸ Cal. Code Regs., tit. 15, § 3482(b); Cal. Code Regs., tit. 15, § 3484(b)(1)-(4).

⁴⁹ Cal. Code Regs., tit. 15, § 3481(c).

⁵⁰ Cal. Code Regs., tit. 15, § 3483(g)(6).

⁵¹ Cal. Code Regs., tit. 15, § 3481(f).

- ◆ Whether there was an attempt to informally resolve the complaint and what if any response was received.
- ◆ Any regulation, policy, statute, constitution section, or case law that has been violated, if known; however, a grievance is not a legal brief, and the focus should be on the facts of what happened and what you want staff to do in response to your grievance.
- ◆ What action is being requested to resolve the grievance.⁵²

The person should attach copies of any documents that would explain the situation or support the grievance. Examples of supporting documents are any written decision that is being challenged, such as a rule violation report, a classification chrono, or release date calculation worksheet. The copies will not be returned. If the person does not have the documents or cannot get copies of them, they should attach a list of each type of document they think exists, the approximate date on which the document was issued, and a very short description of what they think the document says.⁵³

The person who is submitting the grievance must personally sign and date it.⁵⁴ Before submitting the grievance, the person should make a copy of it. A person who cannot get access to a copy machine can make a handwritten copy.

The 602-1 form and supporting documents should be submitted to the Institutional Office of Grievances for the prison or reentry facility or fire camp where the person is housed. The grievance can be placed in the internal prison mail or in a locked drop box; electronic filing through a kiosk or tablet may also be available.⁵⁵ A person who is on parole can submit a grievance to the Regional Office of Grievances by mail, drop box, or any electronic filing options that are available.⁵⁶ Prison and parole officials are supposed to inform people about the addresses and locations for submitting grievances.⁵⁷ The person should make a note of the date and method by which the appeal is being submitted. This can be crucial for preserving their rights if CDCR staff misplace or lose the grievance.

1.13 Processing of a CDCR Form 602-1 Grievance

Staff at the Office of Grievances must review a 601-1 form within one business day after the office receives it.⁵⁸

There are a few types of situations in which staff must take quick action after receiving the grievance. First, if the grievance contains information about an imminent danger to personal safety or

⁵² See Cal. Code Regs., tit. 15, § 3482(c).

⁵³ Cal. Code Regs., tit. 15, § 3482(c)(4).

⁵⁴ Cal. Code Regs., tit. 15, § 3482(c)(5). CDCR rules no longer allow “group appeals” by multiple people who are concerned about the same issue.

⁵⁵ Cal. Code Regs., tit. 15, § 3482(a)(1); see also *In re Andres* (2016) 244 Cal.App.4th 1383, 1395-1397 [198 Cal.Rptr.3d 878]; *In re Lambirth* (2016) 5 Cal.App.5th 915 [211 Cal.Rptr.3d 104].

⁵⁶ Cal. Code Regs., tit. 15, § 3482(a)(2).

⁵⁷ Cal. Code Regs., tit. 15, § 3482(a)(1)-(2).

⁵⁸ Cal. Code Regs., tit. 15, § 3483(a). Business days do not include weekends and holidays.

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institutional security, or of sexual abuse, staff must immediately take “appropriate” action and notify the person about any such action within five business days.⁵⁹ Second, if the grievance claims that the person’s Earliest Possible Release Date (EPRD) is wrong and they are scheduled for release within 90 days of the date the grievance is received, staff must do a comprehensive review of the release date and provide the person with a response within 30 calendar days.⁶⁰

In non-urgent cases, the Grievance Coordinator shall refer the grievance to the Centralized Screening Team (CST) within three business days after the grievance is received.⁶¹ The CST screens all grievances to see whether the claim is a “routine claim” or a “staff misconduct” claim.⁶² If the CST finds the grievance is a routine claim, the procedures discussed in this section will apply.⁶³ If the CST decides that the grievance is a staff misconduct claim, it will be handled using special procedures described in [§ 1.18](#).

Within four business days after the Office of Grievances receives a 602-1 form, the Grievance Coordinator must send the person a notice showing the date the grievance was submitted and received, and the due date for the response. The notice also will inform the person if the grievance has been disallowed.⁶⁴ The 602-1 form and any documents that were attached will be returned to the person with the notice, and the Office of Grievances will keep an electronic copy of all the documents that were submitted.⁶⁵

The Office of Grievances has a deadline of 60 calendar days to respond to the grievance.⁶⁶ The deadline can be extended if there is a state of emergency.⁶⁷ A copy of the response must be sent to the person within two business days of the decision.⁶⁸ If a person does not receive a response by the deadline, they can try to get attention to the problem by filing a new 602-1 form stating the date the original grievance was submitted, the log number, and that they have not received a timely response.

As part of investigating the grievance, the Office of Grievances can interview the person who submitted it or any witnesses that staff believe would provide helpful information.⁶⁹ However, anyone

⁵⁹ Cal. Code Regs., tit. 15, § 3483(a).

⁶⁰ Cal. Code Regs., tit. 15, § 3483(a).

⁶¹ Cal. Code Regs., tit. 15, § 3483(b).

⁶² Cal. Code Regs., tit. 15, § 3480(b)(4).

⁶³ Cal. Code Regs., tit. 15, § 3483(d).

⁶⁴ Cal. Code Regs., tit. 15, § 3483(c).

⁶⁵ Cal. Code Regs., tit. 15, § 3482(e)-(f).

⁶⁶ Cal. Code Regs., tit. 15, § 3483(g).

⁶⁷ Cal. Code Regs., tit. 15, § 3383(d).

⁶⁸ Cal. Code Regs., tit. 15, § 3483(i).

⁶⁹ Cal. Code Regs., tit. 15, § 3483(e).

who participated in the decision or action that is being challenged cannot conduct the interviews or decide how to respond to the grievance.⁷⁰

There are 10 types of responses the Office of Grievances can issue.⁷¹ Some of these responses will exhaust a person's administrative remedies, but others will not.⁷² Here is a chart of the various types of responses:

TYPE OF RESPONSE	EXPLANATION	EXHAUSTS REMEDIES?
Denied	The reviewer found by a preponderance of the evidence that all rules were followed.	No. An appeal can be filed.
Granted	The reviewer found by a preponderance of the evidence that all rules were not followed. The Office of Grievances shall order an appropriate remedy. The remedy shall be carried out within 30 calendar days after the response. There are exceptions: (1) if the remedy requires disbursement of funds, it must be carried out within 90 calendar days, or (2) if the remedy requires budget authorization outside CDCR authority, it must be carried out within one year. ⁷³	No. An appeal can be filed. (Circumstances in which a person might appeal a "grant" are if the decision does not actually resolve the concern or provide the requested remedy.)
No Jurisdiction	The claim concerns a policy, decision, action, condition, or omission by some other entity or official (not CDCR).	No. An appeal can be filed.
Redirected	The claim is being forwarded to the appropriate authority for action under some other grievance or review process.	No. An appeal can be filed.
Reassigned	A claim that involves events that all or mostly happened at another facility will be reassigned to the Office of Grievances at that facility. The response timeline still starts on the date the grievance was received by the first Office of Grievances.	No. An appeal can be filed.

⁷⁰ Cal. Code Regs., tit. 15, § 3483(f).

⁷¹ Cal. Code Regs., tit. 15, § 3483(g) (listing and describing the types of responses).

⁷² Cal. Code Regs., tit. 15, § 3483(l).

⁷³ Cal. Code Regs., tit. 15, § 3483(j)(1).

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TYPE OF RESPONSE	EXPLANATION	EXHAUSTS REMEDIES?
Rejected	<p>The claim is being rejected for one of the following reasons:</p> <p>The grievance was not submitted by the deadline. The Office of Grievances must state the starting date for the deadline, the deadline date, and the date the grievance was received.⁷⁴</p> <p>The claim concerns an expected policy, action, or problem that has not actually happened yet.</p> <p>The claim is substantially the same as a claim that the person previously submitted (and reason for the prior rejection was not because it was about something that had not yet happened).⁷⁵</p> <p>The claim concerns harm to someone else.</p> <p>The claim concerns the legality of the grievance and appeal rules.</p>	No. An appeal can be filed.
Disallowed	Grievance documents are contaminated with organic, toxic, or hazardous material that may present a threat to staff safety or institutional security. The documents will be discarded.	No. An appeal can be filed OR the grievance can be resubmitted if within the normal time limits. ⁷⁶
Identified as Staff Misconduct	The claim involves staff misconduct and was referred to the appropriate authority for gathering relevant facts. (See § 1.18 for special rules on staff misconduct complaints.)	Yes. Remedies are exhausted.
Pending Legal Matter	The claim concerns pending litigation by someone else (but not a class action lawsuit), or pending legislation or regulatory action.	Yes. Remedies are exhausted.
Time Expired	The Office of Grievances was not able to respond to the claim within 60 calendar days, and this is the only response that will be provided.	Yes. Remedies are exhausted.

1.14 Deadline for Submitting a CDCR Form 602-2 Appeal of Grievance

A person who receives a form 602-1 grievance response that does not exhaust administrative remedies, and who is not fully satisfied with that response, can appeal the decision or the remedy.⁷⁷

⁷⁴ Cal. Code Regs., tit. 15, § 3483(h).

⁷⁵ See *Menefield v. Foreman* (2014) 231 Cal.App.4th 211, 218-220 [180 Cal.Rptr.3d 3] (under prior CDCR regulations, court upheld cancellation of appeal where there was significant but not complete overlap in issues raised).

⁷⁶ See Cal. Code Regs., tit. 15, § 3482(d)(3).

⁷⁷ Cal. Code Regs., tit. 15, § 3484.

The deadline for submitting an appeal is 60 calendar days after the person knows (or should reasonably have known) about the grievance response.⁷⁸ The deadline may be extended while the person is out to court, at an outside hospital, temporarily in a medical or mental health crisis bed, or actively fighting fires.⁷⁹

1.15 Submitting a CDCR Form 602-2 Appeal of Grievance

A person who receives a form 602-1 grievance response that does not exhaust administrative remedies, and who is not fully satisfied with that response, can appeal the decision or the remedy.⁸⁰ The appeal should be submitted using the two-page CDCR Form 602-2 Appeal of Grievance (see Appendix 1-B). The deadline for submitting an appeal is 60 calendar days after the person knows (or should reasonably have known) about the grievance response.⁸¹ The deadline may be extended while the person is out to court, at an outside hospital, temporarily in a medical or mental health crisis bed, or actively fighting fires.⁸²

The person must fill out the identifying information and sign and date the form. For each claim being appealed, they should describe why they are dissatisfied with the response.⁸³ They should not add any new claims or submit new supporting documents, as those will not be considered.⁸⁴ They should not include the original grievance, supporting documents, or response, as CDCR will already have the original 602-1 package and response in its computer system and any documents submitted with the 602-2 form will not be returned.⁸⁵

The person can submit the CDCR 602-2 form by sending it in the regular mail to: Office of Appeals, CDCR, P.O. Box 942883, Sacramento, CA 95811. Some facilities may have a system for submitting appeals through an electronic kiosk or tablet.⁸⁶

1.16 Processing of a CDCR Form 602-2 Appeal of Grievance

When the CDCR Office of Appeals receives a CDCR Form 602-2 Appeal of Grievance, a reviewer must determine whether the appeal concerns imminent risk to personal safety or institutional security, or of sexual abuse. If there is such a risk, staff must refer the matter back to the local

⁷⁸ Cal. Code Regs., tit. 15, § 3484(b).

⁷⁹ Cal. Code Regs., tit. 15, § 3484(b)(1)-(4).

⁸⁰ Cal. Code Regs., tit. 15, § 3484.

⁸¹ Cal. Code Regs., tit. 15, § 3484(b).

⁸² Cal. Code Regs., tit. 15, § 3484(b)(1)-(4).

⁸³ Cal. Code Regs., tit. 15, § 3484(c).

⁸⁴ Cal. Code Regs., tit. 15, § 3485(e).

⁸⁵ Cal. Code Regs., tit. 15, § 3484(e).

⁸⁶ Cal. Code Regs., tit. 15, § 3484(a).

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Institutional or Regional Office of Grievances to immediately take “appropriate” action. The person must be notified of any immediate action taken within five business days.⁸⁷

The Office of Appeals must send the person a notice that the appeal has been received within four business days after receipt. The notice must state the dates the appeal was submitted and received, the due date for the response, and whether any claims have been disallowed.⁸⁸

The Office of Appeals is supposed to complete a written response to an appeal within 60 calendar days after the appeal was received.⁸⁹ A copy of the response must be sent to the person within two business days of the decision.⁹⁰ A copy of the 602-2 form will be returned at the same time.⁹¹

Before making a decision, the Office of Appeals shall review the original grievance, the response, records of any interviews that were conducted, and any relevant records in the CDCR system.⁹² The Office of Appeals can issue similar types of responses as an Institutional or Regional Office of Grievances: denied, granted, no jurisdiction, redirected, reassigned, rejected, disallowed, identified as staff misconduct, pending legal matter, time expired (see descriptions in [§ 1.13](#)).⁹³

In 2021 and 2022, “Time Expired” responses to appeals were quite common due to short-staffing in the Office of Appeals. Although such responses do exhaust administrative remedies, they are problematic because Headquarters-level CDCR staff were not actually considering or acting on potentially important issues. In summer 2022, Prison Law Office attorneys discussed this problem with CDCR officials, who indicated that they were taking steps to improve appeal response rates.

If the Office of Appeals grants any of the claims, a copy of the decision shall be sent to the Institutional or Regional Grievance Coordinator.⁹⁴ The remedy must be carried out no later than 30 calendar days after the decision is sent.⁹⁵ There are two exceptions: (1) if the remedy requires disbursement of funds, then the remedy timeline is 90 days, or (2) if the remedy requires budget authorization by an authority outside the CDCR, then the remedy must be carried out within one year.⁹⁶ See [§ 1.17](#) for what to do if the deadline passes without the remedy being put into effect.

Completion of the appeal process exhausts all CDCR administrative remedies if the appeal response is denied, granted, no jurisdiction, identified as staff misconduct, pending legal matter, or time expired.⁹⁷ However, administrative remedies are not exhausted if the appeal is redirected, rejected,

⁸⁷ Cal. Code Regs., tit. 15, § 3485(a); Cal. Code Regs., tit. 15, § 3483(a).

⁸⁸ Cal. Code Regs., tit. 15, § 3485(c).

⁸⁹ Cal. Code Regs., tit. 15, § 3485(g).

⁹⁰ Cal. Code Regs., tit. 15, § 3485(i).

⁹¹ See Cal. Code Regs., tit. 15, § 3484(e).

⁹² Cal. Code Regs., tit. 15, § 3486(g).

⁹³ Cal. Code Regs., tit. 15, § 3485(g)(1)-(10).

⁹⁴ Cal. Code Regs., tit. 15, § 3485(i).

⁹⁵ Cal. Code Regs., tit. 15, § 3485(j)(1).

⁹⁶ Cal. Code Regs., tit. 15, § 3485(j).

⁹⁷ Cal. Code Regs., tit. 15, § 3485(l)(1).

disallowed, or reassigned to an Office of Grievances (because no grievance was submitted or the grievance was not processed properly) or the Remedies Compliance Coordinator (because the appeal is actually a request to implement a remedy that was already ordered).⁹⁸

1.17 Submitting a CDCR Form 602-3 Request to Implement Remedies

There is a process to make a “Request to Implement Remedies” when a claim in a grievance or appeal has been granted, but the promised remedy is not carried out within the deadline. To submit such a request, the person should fill out a CDCR Form 602-3 Request to Implement Remedies (see Appendix 1-C) with information about the claim, and the remedy that was promised, and then sign and date the form. The form should be submitted in the U.S. mail to Remedies Compliance Coordinator, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 95811.⁹⁹

1.18 Special Rules for Staff Misconduct Grievances

CDCR has special rules for processing, investigating, and responding to grievances that allege that staff have committed misconduct. Staff misconduct is behavior that is contrary to law, regulation, policy, or an ethical or professional standard, such as brutality, harassment, or blatant failure to follow rules.¹⁰⁰ (See Chapter 3 for more information about the rights to be free from abuse by prison and parole staff.) Most staff misconduct grievances can be submitted using a regular CDCR Form 602-1 Grievance in which the person describes what happened and requests a staff misconduct investigation.¹⁰¹ However, if the person who committed the misconduct is a health care provider (medical, mental health, or dental), the grievance should be submitted using the grievance on a 602-HC Form Health Care Grievance.¹⁰² In addition, any CDCR Form 1824 Reasonable Accommodation Request that alleges misconduct by staff will be subject to the special staff misconduct investigation procedure.¹⁰³

A person who wants an investigation of staff misconduct and who also wants to raise other issues or request other types of relief related to the misconduct should file separate grievances regarding the staff misconduct and the other issue. For example, if staff used excessive force against a person, and the person was also found guilty of a rule violation related to the incident, they should file a staff misconduct grievance regarding the excessive force and a separate grievance challenging the rule violation finding. Likewise, a person might want to file separate grievances asking to be separated from the staff who committed the misconduct and asking for money compensation for property damage or physical injuries caused by the misconduct.

⁹⁸ Cal. Code Regs., tit. 15, § 3485(l)(2).

⁹⁹ Cal. Code Regs., tit. 15, § 3483(j)(2); Cal. Code Regs., tit. 15, § 3485(j)(2).

¹⁰⁰ Cal. Code Regs., tit. 15, § 3480(a)(14).

¹⁰¹ Cal. Code Regs., tit. 15, § 3486(a)(1). Note that the former rule requiring that an incarcerated person who is submitting a staff misconduct grievance also sign a “Rights and Responsibilities Statement” has been repealed.

¹⁰² Cal. Code Regs., tit. 15, § 3486(a)(1).

¹⁰³ Cal. Code Regs., tit. 15, § 3486(a)(1).

Any grievance alleging staff misconduct will be sent to a CDCR office called the Centralized Screening Team (CST).¹⁰⁴ The CST first determines whether the grievance indicates that there is an imminent risk to personal safety or institutional security or whether the grievance is about sexual abuse or sexual misconduct; in those cases, the CST will immediately notify the appropriate “hiring authority” (the high-ranking official, such as the Warden, Regional Parole Administrator or Health Care CEO) who has authority to take “appropriate action” to protect the person.¹⁰⁵ The CST then makes a screening decision about how the grievance will be handled.¹⁰⁶ The CST may interview the person who submitted the grievance or other people before making the screening decision.¹⁰⁷ The CST has three options:

- ◆ **Routine Complaint:** The CST can decide the grievance is not really a staff misconduct complaint. In that case, the CST will send the grievance back to the institution or parole region for handling as a regular grievance.¹⁰⁸
- ◆ **Allegation Inquiry:** The CST can refer the grievance for an “allegation inquiry” if it finds that the staff misconduct complaint does not involve complex issues requiring specialized investigative skills or resources.¹⁰⁹ The inquiry will be conducted by a Locally Designated Investigator (LDI), who is trained by the OIA Allegation Investigation Unit (AIU), and who must be at least one rank higher than the highest-ranking staff member named in the complaint.¹¹⁰ If the LDI finds out information that should lead to a higher level of investigation, the LDI can ask the hiring authority to refer the case to the AIU for an “Investigation,” as described in the next bullet point. Otherwise, the LDI will complete the inquiry and write a confidential draft report. The draft will be reviewed by an AIU manager to ensure it is sufficient, complete, and unbiased. Once the report is finalized, it will be sent to the hiring authority.¹¹¹
- ◆ **Investigation:** The CST must refer the grievance for an “investigation” if the staff misconduct complaint involves use of force or sexual abuse or includes complex issues requiring specialized investigative skills or resources.¹¹² The CST also has discretion to refer other types of cases for an investigation rather than an allegation inquiry.¹¹³ This investigation will be conducted by an investigator from the OIA Allegation Investigation Unit (AIU).¹¹⁴ The investigator will prepare a confidential draft report. An AIU manager

¹⁰⁴ Cal. Code Regs., tit. 15, § 3486(c)(6), (d)(2); Cal. Code Regs., tit. 15, § 3486.1(a), (e).

¹⁰⁵ Cal. Code Regs., tit. 15, § 3486.1(f).

¹⁰⁶ Cal. Code Regs., tit. 15, § 3486(b)(21); Cal. Code Regs., tit. 15, § 3486.1(e), (h).

¹⁰⁷ Cal. Code Regs., tit. 15, § 3486.1(g).

¹⁰⁸ Cal. Code Regs., tit. 15, § 3486(c)(20).

¹⁰⁹ Cal. Code Regs., tit. 15, § 3486(b)(21), (c)(1), (d)(4).

¹¹⁰ Cal. Code Regs., tit. 15, § 3486(b)(18); Cal. Code Regs., tit. 15, § 3486.2(c)(2).

¹¹¹ Cal. Code Regs., tit. 15, § 3486.2(c).

¹¹² Cal. Code Regs., tit. 15, § 3486(d)(1)-(2), (d)(15).

¹¹³ Cal. Code Regs., tit. 15, § 3486 (b), (d)(3).

¹¹⁴ Cal. Code Regs., tit. 15, § 3486(b)(3).

will review the draft report to determine whether the investigation is complete, sufficient, and unbiased. In some cases, an attorney who advises CDCR (called a “Vertical Advocate” or “VA”) will also review and may comment on the draft report. When the report is finalized, it will be sent to the hiring authority who has authority over the staff person who is the subject of the complaint.¹¹⁵

A person will get only limited information about how the matter is being handled. They should be notified that the complaint has been received by the CST within 30 business days after receipt.¹¹⁶ If a grievance or appeal is found to be a staff misconduct claim, the person will get a response stating that the claim has been “identified as staff misconduct.”¹¹⁷ Such a response exhausts the person’s administrative remedies.¹¹⁸

The hiring authority will review the allegation inquiry report or investigation report, and will make one of the following determinations for each claim:

- ◆ **No finding:** The person who filed the claim failed to provide promised information to further the investigation, or another agency was involved and the claim is being referred to that agency, or the person refused to cooperate with the investigation, or the person is no longer available for clarification of facts/issues, or the person wants to withdraw the complaint.
- ◆ **Not Sustained:** There was not a preponderance of evidence to prove or disprove the allegation.
- ◆ **Unfounded:** There was proof the alleged acts did not occur, or proof that the employee named in the complaint was not involved in any acts that may have occurred.
- ◆ **Exonerated:** The alleged acts did occur; but those acts were justified, lawful, and proper.
- ◆ **Sustained:** A preponderance of the evidence proves the misconduct claim.¹¹⁹ If an allegation of staff misconduct is sustained, the hiring authority must take “corrective action” (non-punitive action to improve work performance or correct behavior, such as training) or “adverse action” (punitive action to discipline the staff person) in accordance with employee discipline rules and the “employee disciplinary matrix.” Possible adverse actions include a letter of reprimand, salary reduction, suspension without pay, demotion, or firing.¹²⁰

When the hiring authority makes a final determination, it must notify the person in writing within 30 days. However, the person will be told only what the basic finding was. They will not be

¹¹⁵ Cal. Code Regs., tit. 15, § 3486.2(a)-(b).

¹¹⁶ Cal. Code Regs., tit. 15, § 3486.1(l).

¹¹⁷ Cal. Code Regs., tit. 15, § 3483(g)(8).

¹¹⁸ Cal. Code Regs., tit. 15, § 3483(g)(8), (l)(2); Cal. Code Regs., tit. 15, § 3485(g)(8), (l)(1).

¹¹⁹ Cal. Code Regs., tit. 15, § 3486.3(a).

¹²⁰ Cal. Code Regs., tit. 15, § 3486.3(b); Cal. Code Regs., tit. 15, § 3392.2-§ 3392.3.

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informed about any details of the investigation or what, if any, action will be taken against the staff person.¹²¹

1.19 Special Rules for Sexual Abuse Grievances

A CDCR Form 602-1 Grievance can be used to raise issues about sexual assault, misconduct, or harassment by either staff or another incarcerated person. However, a CDCR Form 602 HC Health Care Grievance can be used if it was health care staff who committed the sexual abuse. Sexual abuse grievances are sometimes called “PREA” grievances, for the Prison Rape Elimination Act that requires prisons to have zero-tolerance of sexual abuse. (See Chapter 3 for more information about the PREA and the different types of sexual abuse.)

There are a few special rules that apply to PREA grievances. There are *no* time limits for submitting a grievance alleging either sexual violence by other people in prison or sexual misconduct by staff.¹²² In addition, sexual abuse is the only issue for which one person can submit a grievance on behalf of another person.¹²³

CDCR officials are supposed to review a sexual abuse grievance immediately, take immediate action to protect someone who is in “substantial risk of imminent” sexual violence by staff or another incarcerated person or sexual misconduct or harassment by staff, and provide an initial response within 48 hours. Within five calendar days, officials must document the risk assessment and any actions that were taken to protect the person. If the person does not get responses within these timelines, they can consider this a denial of the grievance and can file a CDCR Form 602-1 Appeal of Grievance.¹²⁴

1.20 Submitting and Processing of a CDCR Form 602 HC Health Care Grievance

There are special rules, procedures, and forms for CDCR administrative grievances and appeals concerning medical, dental, or mental health care, including complaints about misconduct or sexual abuse by health care staff.¹²⁵ Before filing a health care grievance, a person must first seek attention through regular health care processes, such as by submitting a CDCR 7362 Health Care Services Request Form (sometimes called a “sick call slip”).¹²⁶ Group appeals are not allowed, but multiple people can submit separate grievances about the same issue; in such a situation, staff can

¹²¹ Cal. Code Regs., tit. 15, § 3486.3(c).

¹²² Cal. Code Regs., tit. 15, § 3084(c)(1), (d)(1); see also Penal Code § 5058.4 (requiring CDCR to implement an employee disciplinary matrix).

¹²³ Cal. Code Regs., tit. 15, § 3084(b).

¹²⁴ Cal. Code Regs., tit. 15, § 3084(a), (c), (d).

¹²⁵ Cal. Code Regs., tit. 15, § 3999.225–§ 3999.37. CDCR also has policies about health care grievances and appeals in the Health Care DOM § 5.1.7, available at <https://cchcs.ca.gov/hcdom/>, and the very detailed CCHCS, Health Care Grievances Operating Standards (July 2019). In addition to pursuing a CDCR health care grievance and appeal, people with complaints about health care staff may consider filing a complaint with the Medical Board of California (see § 1.35).

¹²⁶ Cal. Code Regs., tit. 15, § 3999.26(a)(3).

interview the person who submitted the first grievance and the response to each person will state that their grievance was processed as one of multiple grievances on the issue.¹²⁷

A person will not be allowed to submit more than one health care grievance every 14 calendar days, unless the grievance is accepted for expedited (faster than normal) processing.¹²⁸ The right to file 602 HC grievances can be restricted if a person “abuses” the process by submitting more than one health care grievance within 14 calendar days (unless the grievance is accepted for expedited review), repeatedly submitting health care grievances that have been rejected without following the rejection instructions, or continuing to submit grievances that don’t comply with the rules. The person should be given a verbal and written warning before a restriction is imposed.¹²⁹ Also, a Headquarters-level official can issue an order restricting a person to one routine health care grievance every 30 calendar days for a period of up to one year; further “abuse” can result in extension of the restriction for one additional year.¹³⁰

Health care grievances should be submitted on a blue CDCR Form 602 HC Health Care Grievance (see Appendix 1-D).¹³¹ The deadline for submitting a health care grievance is 30 calendar days after the date of the action or decision being challenged or the date the person first knew about that action or decision.¹³² A late grievance may be allowed after the deadline if the person states a good reason why they did not meet the normal deadline or why the issues should still be addressed.¹³³

A person who wants to submit a health care grievance should fill out Part A of the CDCR Form 602 HC with the date of the action being challenged, any information that identifies the staff involved, and a description of what happened and why it is a problem. If the problem is urgent, the person should say so at the start of Part A. If additional space is needed, the person can fill out and attach a CDCR Form 602 HC-A Health Care Grievance Attachment (see Appendix 1-E). If they want to be interviewed by staff, they should put their initials in the appropriate box. The person must date and sign the CDCR Form 602 HC-A. Any relevant supporting documents should be attached, such as any CDCR Form 7362 that was submitted or medical records showing what treatment was prescribed. If the person cannot attach the relevant documents, they should explain why in the space provided on the CDCR Form 602 HC.¹³⁴

¹²⁷ Cal. Code Regs., tit. 15, § 3999.232.

¹²⁸ Cal. Code Regs., tit. 15, § 3999.226(c). Note that if a rule limiting the number of grievances a person can file prohibits them from raising an issue through the grievance process, a court may consider whether administrative remedies were effectively unavailable such that the person may be allowed to proceed with a lawsuit. *Eaton v. Blewitt* (9th Cir. 2022) 50 F.4th 1240, 1247.

¹²⁹ Cal. Code Regs., tit. 15, § 3999.236(b).

¹³⁰ Cal. Code Regs., tit. 15, § 3999.236.

¹³¹ Cal. Code Regs., tit. 15, § 3999.227. Note that there is a different form (CDCR Form 1824) and process for requesting disability aids, such as canes, glasses, or hearing aids (see [§ 1.22](#)).

¹³² Cal. Code Regs., tit. 15, § 3999.227(b).

¹³³ Cal. Code Regs., tit. 15, § 3999.228(d).

¹³⁴ Cal. Code Regs., tit. 15, § 3999.227(a)-(l).

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The person should submit their CDCR Form 602 HC and any attachments to the prison's Health Care Grievance Office (HCGO) through a locked drop box or the internal prison mail.¹³⁵

When the HCGO receives a grievance, a health care professional who is at least a Registered Nurse (RN) must triage the grievance within one business day to determine whether it raises any health care, disability, sexual abuse, or safety issues that require urgent attention. If there are such issues, the matter should be referred immediately to appropriate staff.¹³⁶ If the nurse decides that there is an urgent health care problem, a response must be completed and provided to the person within five business days after the grievance is received by the HCGO.¹³⁷

Within three business days of receipt, the CST will review the grievance for staff misconduct allegations. A CDCR Form 602 HC that alleges staff misconduct will be handled under the same procedures as for other staff misconduct grievances (see § 1.18).¹³⁸ A CDCR Form 602 HC alleging sexual abuse will be handled under the same procedures as other sexual abuse grievances (see § 1.19).¹³⁹

Within five business days of receipt, the HCGO will screen the grievance to determine if it meets all the criteria for acceptance as a health care grievance and, if so, to decide whether the grievance is about a clinical issue or an administrative issue.¹⁴⁰

A grievance can be rejected by the HCGO if the person: (1) did not follow all the rules for submitting a grievance, (2) is raising an issue about an expected action or decision that hasn't happened yet, (3) did not first try to get health care services through regular processes, (4) submitted a grievance on behalf of someone else, (5) got moved out of CDCR (for example, sent to an outside hospital or out to court) and isn't expected to return until after the deadline for responding to the grievance expires, (6) submitted a duplicate of a prior grievance and there is no good reason for reconsidering the issue, or (7) tried to file a "group" grievance with other people about the same issue.¹⁴¹ If the grievance is rejected, the person won't get a response to the issue they raised. Instead, the Form 602 HC will be returned with the "Rejected" box checked and information about any action that could correct the problem so that the grievance can be resubmitted.¹⁴² If a grievance is rejected because the person was temporarily moved out of CDCR, the person should be allowed to resubmit the grievance when they return to CDCR.¹⁴³

If a health care grievance is accepted, the reviewer may interview the person if they asked for an interview or if staff believe an interview is necessary. Health care staff who participated in the event

¹³⁵ Cal. Code Regs., tit. 15, § 3999.227(m).

¹³⁶ Cal. Code Regs., tit. 15, § 3999.228(b).

¹³⁷ Cal. Code Regs., tit. 15, § 3999.228(b); Cal. Code Regs., tit. 15, § 3999.233(b).

¹³⁸ Cal. Code Regs., tit. 15, § 3486(d).

¹³⁹ Cal. Code Regs., tit. 15, § 3999.231(d).

¹⁴⁰ Cal. Code Regs., tit. 15, § 3999.228(b)-(d).

¹⁴¹ Cal. Code Regs., tit. 15, § 3999.228(c)-(d); Cal. Code Regs., tit. 15, § 3999.234(a).

¹⁴² Cal. Code Regs., tit. 15, § 3999.234(b). There will be no response if a person is paroled, discharged, or dies before a response is prepared. Cal. Code Regs., tit. 15, § 3999.237(b)-(c).

¹⁴³ Cal. Code Regs., tit. 15, § 3999.237(a).

or decision being challenged may not be the ones to conduct the interview. If multiple people submit CDCR Forms 602 HC about the same problem, staff may opt to interview only the person who filed the first 602 HC.¹⁴⁴

For non-urgent health care issues, the deadline for a response is within 45 business days.¹⁴⁵ The deadline can be extended if the person who submitted the grievance, staff involved in the issue, or other witnesses are not available, or if the issue is complex and requires additional research, or if there is a state of emergency.¹⁴⁶

A person can agree to withdraw a health care grievance, except for a staff misconduct complaint. The reason the person is withdrawing must be described in Section E of the CDCR 602 HC and signed and dated by the person. If a person withdraws a grievance because they were promised some type of relief – and that relief is not provided –they can submit a new 602 HC grievance within 30 calendar days after the date of the withdrawal.¹⁴⁷

1.21 Submitting and Processing of a CDCR Form 602 HC Health Care Appeal of Grievance

A person who is not satisfied with the response to their health care grievance can submit an appeal for a review by CDCR headquarters staff at the Health Care Correspondence and Appeals Branch (HCCAB). The deadline to submit an appeal is within 30 calendar days plus 5 calendar days for mailing after the “date closed and mailed/delivered to grievant” listed on the CDCR Form 602 HC response.¹⁴⁸ However, the HCCAB can decide that there is good reason to accept an appeal even if it is late.¹⁴⁹

To appeal, the person should fill out Part B of the CDCR Form 602 HC (and section C of the 602 HC-A if more space is needed), attach any supporting documents including the response they received to the grievance, and then sign and date Part B.¹⁵⁰ A person who has not met the appeal deadline should explain why they could not file the appeal on time or why it is important to address the problem anyway.¹⁵¹

If the grievance got expedited processing at the prison level, the person can submit their appeal by sending the form and documents back to the institution’s HCGO with a request for continued expedited processing. For a regular non-expedited appeal, the form and attachments should be

¹⁴⁴ Cal. Code Regs., tit. 15, § 3999.228(f), (h).

¹⁴⁵ Cal. Code Regs., tit. 15, § 3999.228(i).

¹⁴⁶ Cal. Code Regs., tit. 15, § 3999.233(a).

¹⁴⁷ Cal. Code Regs., tit. 15, § 3999.235.

¹⁴⁸ Cal. Code Regs., tit. 15, § 3999.229(a).

¹⁴⁹ Cal. Code Regs., tit. 15, § 3999.230(d).

¹⁵⁰ Cal. Code Regs., tit. 15, § 3999.229(a).

¹⁵¹ Cal. Code Regs., tit. 15, § 3999.230(d).

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submitted by U.S. Mail to the address on the CDCR Form 602 HC: Health Care Correspondence and Appeals Branch (HCCAB), P.O. Box 588500, Elk Grove, CA 95758.¹⁵²

When the appeal arrives at the HCCAB, a health care staff person who is at least an RN will screen the appeal within one business day to determine whether it identifies a health care issue that requires attention by a medical professional, whether it should get expedited processing, and whether the deadline and other procedural requirements were met.¹⁵³ A health care appeal can be rejected for the same reasons as a health care grievance.¹⁵⁴ If the appeal is accepted, the HCCAB staff must respond to an appeal that needs expedited processing within five business days.¹⁵⁵ The response to a regular health care appeal must be completed within 60 business days.¹⁵⁶ The response deadline can be extended if the person, staff involved in the issue, or witnesses are not available, or if the issue is complex and requires additional research, or if there is a state of emergency; the person must be notified about any delay and told the estimated response date.¹⁵⁷ The HCCAB response should address the original grievance issue, and the reviewer also can (but doesn't have to) respond to any new issues that were added in the appeal.¹⁵⁸ The HCCAB can make various types of orders, including issuing a directive requiring the prison to take some type of action regarding the person's health care. Prison staff should comply with any such directive within 60 calendar days, unless the HCCAB sets a shorter deadline for an expedited issue.¹⁵⁹ If prison staff cannot comply with the directive within the deadline, the HCCAB must notify the HCCAB about the delay and of the estimated completion date.¹⁶⁰

An HCCAB response to a CDCR Form 602 HC exhausts administrative remedies.¹⁶¹ However, administrative remedies are not exhausted if the person obtains only a prison-level HCCAB grievance response, if the grievance or appeal is rejected, or if the person withdraws their grievance or appeal.¹⁶²

1.22 Disability Accommodation Requests (CDCR Form 1824)

CDCR has a special form and process for people with disabilities to ask for fair treatment or to get access to CDCR services, activities, or programs.¹⁶³

¹⁵² Cal. Code Regs., tit. 15, § 3999.229(a).

¹⁵³ Cal. Code Regs., tit. 15, § 3999.230(b)-(d).

¹⁵⁴ Cal. Code Regs., tit. 15, § 3999.230(c); Cal. Code Regs., tit. 15, § 3999.234.

¹⁵⁵ Cal. Code Regs., tit. 15, § 3999.233(b).

¹⁵⁶ Cal. Code Regs., tit. 15, § 3999.230(f).

¹⁵⁷ Cal. Code Regs., tit. 15, § 3999.233(a).

¹⁵⁸ Cal. Code Regs., tit. 15, § 3999.233(i).

¹⁵⁹ Cal. Code Regs., tit. 15, § 3999.230(l).

¹⁶⁰ Cal. Code Regs., tit. 15, § 3999.230(l); Cal. Code Regs., tit. 15, § 3999.233(c)-(d).

¹⁶¹ Cal. Code Regs., tit. 15, § 3999.225(b); Cal. Code Regs., tit. 15, § 3999.226(g); Cal. Code Regs., tit. 15, § 3999.230(h), (j).

¹⁶² Cal. Code Regs., tit. 15, § 3999.226(g).

¹⁶³ *Armstrong v. Davis* (N.D. Cal. Jan 3, 2001) No. C94-2307, Remedial Plan, § IV.I 23; CDCR, *1824 Desk Reference Manual* (Oct. 2, 2017).

CDCR Form 1824 Reasonable Accommodation Request (Appendix 1-F) is for raising disability issues in prison or on parole. The form can be used to request actions such as modifying policies or procedures, providing auxiliary aids or services, or making structural changes to facilities. For example, a person could use the 1824 process if the CDCR denied participation in a job or school program because of a disability, if a person needs assistance such as a sign language interpreter, or if a person who uses a wheelchair is not able to get to part of the prison. However, an 1824 form should *not* be used to appeal health care issues such as requests for a particular medical treatment, transfer to a medical facility, or physical therapy; these issues should be appealed using the CDCR 602 HC health care grievance form and procedures (§ 1.20).

A person who wants to submit a disability accommodation request should fill out the CDCR Form 1824 with information about the nature of their disability, the problem they are having, and what is needed to solve the problem. The person should list any documents they have that describe their disability and the problem, and attach those documents if possible. The person must sign and date the form. The person should then submit the request to the office of grievances for the prison or parole region.

The grievance office staff should screen the CDCR Form 1824 within one day after it is received for urgent medical or mental health issues. The request will then be reviewed by a Reasonable Accommodation Panel (RAP) during a weekly meeting. The RAP includes medical and custody staff. The RAP should provide a substantive response within 30 calendar days after receiving the request.¹⁶⁴

If the request for accommodation is denied, the RAP response should inform the person that they can appeal the issue by filing either a CDCR Form 602 HC (for issues that should be addressed by medical staff) or a CDCR Form 602-2 (for issues that should be addressed by custody staff). In the appeal, the person should explain why they disagree with the RAP response and should attach a copy of the RAP response. The normal procedures for submitting and responding to CDCR Forms 602-2 and 602 HC appeals will apply.¹⁶⁵ Those procedures are discussed in § 1.15-§ 1.16 (CDCR Form 602-2) and § 1.21 (CDCR Form 602 HC).

BOARD OF PAROLE HEARINGS (BPH) GRIEVANCE AND APPEAL PROCESSES

1.23 No General BPH Grievance Process

The Board of Parole Hearings (BPH) is a part of CDCR that makes decisions to find people suitable or unsuitable for parole, including special types of parole like elderly parole, youth offender parole, nonviolent offender parole, and medical parole (see Chapter 10). BPH does not have a general administrative remedies process. BPH does not have a general administrative grievance process for challenging such decisions. Thus, a person does not have to go through any administrative grievance or appeal procedure before filing a court case challenging most types of BPH decisions.¹⁶⁶ However, BPH does have processes for requesting reviews of some types of decisions, which are discussed in

¹⁶⁴ CDCR, *1824 Desk Reference Manual* (Oct. 2, 2017).

¹⁶⁵ CDCR, *1824 Desk Reference Manual* (Oct. 2, 2017).

¹⁶⁶ See, e.g., *In re Trejo* (2017) 10 Cal.App.5th 972, 976-979 [216 Cal.Rptr.3d 855].

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the following sections. A person who wants to challenge one of these types of decisions should ask for a BPH review in order to exhaust administrative remedies.

1.24 BPH Forms 1073 and 1074 Disability Accommodation Requests and Appeals

There is a procedure for requesting disability accommodations and challenging disability discrimination in BPH proceedings.¹⁶⁷ Examples of accommodations include ensuring accessibility to the hearing room for a person with a mobility impairment, braille or taped documents or reading assistance for a person with vision impairment, assistance in communicating for a person with developmental disabilities, or sign language interpretation for a person with hearing impairments.

A person who is seeking a disability accommodation should use the BPH Form 1073 Notice and Request for Assistance at Parole Proceeding (see Appendix 1-G). A person must be given the opportunity to fill out and submit a BPH Form 1073 prior to their parole hearing. The correctional counselor or a Classification and Parole Representative (C&PR) should assist in filling out the request and send it to the BPH Americans with Disabilities Act (ADA) Unit Coordinator for review. Alternately, the person or their attorney can submit the request.

If the request is denied or if the accommodations proposed by the BPH are not satisfactory, the person can fill out and submit a BPH Form 1074 Request for Reasonable Accommodation-Grievance Process (see Appendix 1-H). If the person has not yet had their parole hearing, they should immediately submit the grievance to the BPH ADA Coordinator, 1515 K Street, Suite 600, Sacramento CA 95814, through the mail, a tablet or asking a staff person, or their Attorney to send the form. BPH should provide a response either within five calendar days or before the parole hearing, whichever is first. If the parole hearing has already happened, the person should send their grievance to the BPH Quality Control Unit, 1515 K Street, Suite 600, Sacramento, CA 95814 so that it is received no later than 90 calendar days after they were notified of the accommodation denial. For post-hearing grievances, BPH must respond within 10 calendar days after receiving the grievance if the issue is about a parole revocation and within 30 calendar days for other issues. When responding to the grievance, the BPH can either (1) order a new hearing with accommodations, (2) deny the grievance, (3) issue a new hearing decision, or (4) dismiss the grievance if it raises an issue that should be handled through a CDCR appeal process, is outside BPH authority, concerns an expected action that hasn't actually happened yet, or was filed late. Completing the CDCR Form 1074 grievance process exhausts administrative remedies for a BPH ADA issue.¹⁶⁸

1.25 Comprehensive Risk Assessments: Objection to Errors

BPH has a procedure for people to object to factual errors in comprehensive risk assessments that are prepared for BPH parole hearings. A person should send a letter to BPH Chief Counsel, P.O.

¹⁶⁷ *Armstrong v. Davis* (N.D. Cal. Aug. 4, 2000) No. C94-2307, Stipulation and Order Approving Defendant's Policies and Procedures, VIII.A and B; Cal. Code Regs., tit. 15, § 2251.5.

¹⁶⁸ *Armstrong v. Davis* (N.D. Cal. Aug. 4, 2000) No. C94-2307, Stipulation and Order Approving Defendant's Policies and Procedures, VIII.A and B; *Armstrong v. Schwarzenegger* (2002) No. C94-2307CW, Revised Permanent Injunction; Cal. Code Regs., tit. 15, § 2251.5-§ 2251.7.

Box 4036, Sacramento, CA 95812, addressed to “Attention: BPH chief counsel/risk assessment objection.” The letter must be received by BPH no later than 30 calendar days before the hearing. A late objection can be considered if there was good cause for the delay. BPH must provide the person or their attorney with a response no later than 10 calendar days before the hearing.¹⁶⁹

1.26 Requests to Advance a Hearing Date: Review of Lack of Jurisdiction Finding or Denial of Advancement

BPH has a procedure for people to request review of a decision denying a request to advance a hearing date. Review can be requested by submitting a written request letter asking for review to the BPH, P.O. Box 4036, Sacramento, CA 95812. The person should explain why the decision was wrong and provide any new information that was not available before the denial. The person must submit the request for review within 30 calendar days after they receive the notice of the denial of the request to advance the date. BPH must provide a response within 15 business days after BPH receives the request for review.¹⁷⁰

1.27 Nonviolent Offender Parole: Review of Lack of Jurisdiction Finding or Unsuitability Determination

BPH has a procedure for seeking review of a BPH finding that it does not have jurisdiction to schedule an indeterminately-sentenced person for a nonviolent offender parole hearing. A person can request review by sending a letter within 30 calendar days after they receive notice of the decision to BPH, P.O. Box 4036, Sacramento, CA 95812. A BPH official must make a decision within 30 days and give the person a copy of the written response within 15 calendar days after the decision is made.¹⁷¹

BPH also has a procedure for asking for review of a decision finding a person unsuitable for nonviolent offender parole or vacating a grant of nonviolent offender parole. The person can ask for review by sending a letter to BPH, P.O. Box 4036, Sacramento, CA 95812 in time for it to be received within 30 calendar days after the decision. A BPH officer who was not been involved in the decision will conduct a review within 30 calendar days after the request is received. The hearing officer will either uphold the parole denial or vacate the parole denial and issue a new decision, and the person should be notified of the outcome within 15 business days of the review decision.¹⁷²

1.28 Youth Offender Parole: Review of Ineligibility Finding

A person who disagrees with a CDCR decision that they are not eligible for “youth offender” parole consideration or with the CDCR’s calculation of their youth offender parole date, must first

¹⁶⁹ Cal. Code Regs., tit. 15, § 2240(e)-(i). The nonprofit UnCommon Law has a useful information packet on how to challenge a comprehensive risk assessment on the Resources page at www.uncommonlaw.org.

¹⁷⁰ Cal. Code Regs., tit. 15, § 2151(e); Cal. Code Regs., tit. 15, § 2156(h); Cal. Code Regs., tit. 15, § 2157.

¹⁷¹ Cal. Code Regs., tit. 15, § 2449.31(e); Cal. Code Regs., tit. 15, § 2449.34. Note that a challenge to a CDCR screening decision finding someone ineligible for nonviolent offender parole should be brought through the regular CDCR Form 602-1 process. Cal. Code Regs., tit. 15, § 3491(f); Cal. Code Regs., tit. 15, § 3492(g).

¹⁷² Cal. Code Regs., tit. 15, § 2449.6(c); Cal. Code Regs., tit. 15, § 2449.7.

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complete the regular CDCR Form 602-1/602-2 grievance and appeal process. However, if the CDCR grievance and appeal are denied, the person can fill out a form to contest disqualification by BPH as a “youth offender” (Appendix 1-I), attach any supporting documents, and mail the packet to BPH Chief Counsel, P.O. Box 4036, Sacramento, CA 95812. BPH must provide a response within 60 calendar days after it receives the request.¹⁷³

OTHER PROCESSES FOR COMPLAINTS ABOUT CDCR OR BPH POLICIES OR ACTIONS

1.29 Overview of Other Administrative Complaint Processes

In addition to CDCR and BPH administrative grievance and appeal processes, there are other ways for people in prison or on parole and for members of the public to complain about CDCR or BPH policies or conditions or misconduct by CDCR or BPH staff. The following sections describe some of the offices and agencies that may be able to investigate or provide assistance with such complaints. Someone who contacts one of these offices or agencies should be as specific as possible about what happened, including describing dates, times, places, and any names of the people involved and potential witnesses. They also should describe any attempts made to address the issue through CDCR or BPH grievance or appeal processes.

It is important for people in prison or on parole to be aware that *filing complaints through these offices and agencies will not exhaust their administrative remedies*. People still must exhaust any available CDCR grievance or appeal process if they want to ensure that they preserve their rights to file court actions about an issue.

1.30 CDCR Ombudsman Requests

The CDCR Office of the Ombudsman attempts to address complaints and resolve problems within the prison system. The Office of the Ombudsman can answer questions, explain policies and procedures, advocate for the fairness of a process, or provide information and at times advice. The Office of the Ombudsman also can make recommendations for changes in CDCR policies and procedures. There is a lead ombudsman, as well as ombudsmen who are assigned to each of the prisons.

An incarcerated person can request an interview with an ombudsman by putting the request addressed to the ombudsman in the internal prison mail. Alternatively, any person can contact the Office of the Ombudsman by mailing a letter to:

CDCR Office of the Ombudsman
1515 S Street, Room 311 South
Sacramento, CA 95811

People can also contact the ombudsmen by phone (916) 445-1773 or by filling out an online assistance request form. Additional information, a list of the ombudsmen assigned to specific

¹⁷³ Cal. Code Regs., tit. 15, § 2442.

institutions, and the on-line assistance request form are on the CDCR website at www.cdcr.ca.gov/ombuds.

1.31 CDCR Office of Internal Affairs Complaints

Any person can contact the CDCR Office of Internal Affairs (OIA) to provide information relevant to a pending staff misconduct grievance or complaint, report the mishandling of an investigation, or report retaliation for a staff misconduct grievance or complaint.

The address for contacting the OIA is:

CDCR Office of Internal Affairs
P.O. Box 3009
Sacramento, CA 95812

The main OIA office telephone number is (877) 424-357. There is also some general information about the OAI on the CDCR website at www.cdcr.ca.gov/oia.

1.32 Office of the Inspector General Complaints

The Office of the Inspector General (OIG) is an independent agency, not part of the CDCR, which was created to investigate prison problems.¹⁷⁴ The OIG prefers to be contacted only after a person has gone through the regular CDCR grievance process or citizen's complaint process. The OIG does not have authority to investigate CDCR staff misconduct on its own. However, the OIG reviews all complaints it receives regarding CDCR staff misconduct, including complaints from people in prison or on parole. In some of those cases, the OIG will ask CDCR to review the complaint and then report to the OIG about whether an investigation has been or will be done and whether any corrective or adverse action is being taken.

The OIG includes a special division called the Office of the PREA Ombudsperson, which has authority to review how CDCR handles grievances or complaints about sexual abuse. People in prison can send confidential legal mail letters about sexual abuse by staff or other incarcerated people to the OIG PREA Ombudsperson, who has the authority to inspect the prisons and interview people. The OIG will investigate whether the CDCR is mishandling an incident of sexual abuse.¹⁷⁵

The address to which requests for OIG investigations should be sent is:

Office of the Inspector General
10111 Old Placerville Road, Suite 110
Sacramento, CA 95827

People may also contact the OIG by telephone at (800) 700-5952, or by submitting a complaint through the OIG website at www.oig.ca.gov.

¹⁷⁴ Penal Code § 6125-§ 6141.

¹⁷⁵ Penal Code § 2641; see also DOM § 54040.16 (all CDCR sexual abuse investigation reports are sent to the OIG).

§ 1.33

The OIG also monitors and issues reports on some CDCR staff misconduct investigations. These reports are available on the OIG website.

1.33 Citizen's Complaints

State law requires CDCR to have procedures for investigation of “citizen’s complaints” against peace officers, including prison correctional officers and parole agents.¹⁷⁶ A citizen’s complaint can be used by members of the public who observe or experience misconduct by CDCR officers. *People in prison or on parole cannot use the citizen’s complaint procedure; instead, they must use the CDCR Form 602-1 or Form 602 HC grievance process for a staff misconduct complaint* (see [§ 1.18](#)).¹⁷⁷

A person in prison’s family, friend, or advocate may file a citizen’s complaint against a CDCR officer by submitting a written complaint to the prison warden or regional parole administrator where the officer is employed. The complaint should be submitted within 12 months of the misconduct. The person filing the complaint must also read and sign the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.¹⁷⁸

The staff misconduct investigation process described in [§ 1.18](#) will be used to investigate citizens’ complaints that are about staff misconduct toward a person who is incarcerated or on parole.¹⁷⁹ If a citizen’s complaint is about staff misconduct toward someone other than a person who is incarcerated or on parole, the hiring authority will handle the complaint.¹⁸⁰

¹⁷⁶ Penal Code § 832.5(a).

¹⁷⁷ Cal. Code Regs., tit. 15, § 3417(a)-(b); Cal. Code Regs., tit. 15, § 3486(a)(1).

¹⁷⁸ Cal. Code Regs., tit. 15, § 3417; see *Chaker v. Crogan* (9th Cir. 2005) 428 F.3d 1215 (finding that former version of the statement violated free speech rights).

¹⁷⁹ Cal. Code Regs., tit. 15, § 3486(d)(11).

¹⁸⁰ Cal. Code Regs., tit. 15, § 3486.1(b).

CDCR is required to retain citizen complaints and the related reports for at least five years where there was no finding of misconduct and at least 15 years where there was a finding of misconduct.¹⁸¹

1.34 State Personnel Board Complaints

A person who is not in prison may file a request with the State Personnel Board asking that disciplinary action be taken against any state employee.¹⁸² People in prison cannot file Personnel Board complaints. The address for the Personnel Board is:

State Personnel Board
Attn: Appeals Division
801 Capitol Mall MS#22
Sacramento, CA 95814

More information and the appeal/complaint form (SPB-101) for filing a request to file charges are available under the appeals tab on the Board's website at www.spb.ca.gov.

Requests to the State Personnel Board must be filed within one year of the misconduct.¹⁸³ After receiving a complaint, the State Personnel Board will hold a hearing, and determine whether to impose disciplinary action such as reprimanding, dismissing, demoting, or suspending the employee.¹⁸⁴

1.35 Medical Board Complaints

The Medical Board of California reviews and investigates complaints about licensed physicians and many other licensed medical professionals. The Board reviews complaints about substandard care (e.g., misdiagnosis, negligent treatment, delay in treatment, etc.), prescribing issues (violation of drug laws, excessive/under prescribing), sexual misconduct, impairment (drug, alcohol, mental, physical), unlicensed practice, and office practice issues (e.g., failure to provide medical records, failure to sign death certificate).

Complaints should be mailed to:

Medical Board of California
Central Complaint Unit
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815

A complaint form (Form 071-61), instructions, and more information are available on the Medical Board website at <https://www.mbc.ca.gov>

¹⁸¹ Penal Code § 832.5(b).

¹⁸² Government Code § 19583.5. A list of reasons for discipline is at Government Code § 19572.

¹⁸³ Government Code § 19583.5.

¹⁸⁴ Government Code § 19583.5.

STAFF USE ONLY

OGT Log No:

Date Received:**Decision Due Date:**

Categories:

Claimant Name: _____ **CDCR #:** _____

Institution/Parole Region: _____ **Current Housing/Parole Unit:** _____

STAFF USE ONLY

Use this form to file a complaint with the Department.

In order for the Department to understand your complaint, please answer all of the following questions:

- *What is the nature of your complaint?*
- *When and where did the complaint occur?*
- *Who was involved?*
- *Which specific people can support your complaint?*
- *Did you try to informally resolve the complaint?*
- *What rule or policy are you relying on to make your complaint?*
- *What specific action would resolve your complaint?*

NOTE: Attach documents that help support your complaint (identify the documents if you do not have them).

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

ADA Accessible

CONTINUATION PAGE

Page 2 of 2

[illegible]

Claimant Signature:

Date Signed:

APPEAL OF GRIEVANCE
CDCR 602-2 (Rev. 01/22)

Page 1 of 2

STAFF USE ONLY	OGT Log No: _____ Date Received: _____
	Decision Due Date: _____
	Categories: _____

Claimant Name: _____ CDCR #: _____

Institution/Parole Region: _____ Current Housing/Parole Unit: _____

STAFF USE ONLY

Use this form to appeal a decision or a remedy by the Office of Grievances.

Do not include new complaints on this form, they must first be filed with the Office of Grievances on a Form 602-1.

OGT Log No: _____ Claim No: _____

Explain the reason for your appeal. Be as specific as you can.

I am dissatisfied with the response I was given because _____

This form shall be submitted by mail to:
Office of Appeals
Department of Corrections and Rehabilitation
P.O. Box 942883
Sacramento, CA 95811

IMPORTANT:

The Office of Appeals will consider all of the supporting documentation you previously submitted to the Office of Grievances when reviewing your appeal, but will not consider any new documentation.

Therefore, it is recommended you not attach any documentation to this form.

Furthermore, any documentation you attach to this form will not be returned to you.

Claimant Signature: _____

Date Signed: _____

CONTINUATION PAGE

Page 2 of 2

OGT Log No: _____ **Claim No:** _____

Explain the reason for your appeal. Be as specific as you can.

I am dissatisfied with the response I was given because

REQUEST TO IMPLEMENT REMEDIES

CDCR 602-3 (Rev. 01/22)

Page 1 of 1

STAFF USE ONLY	OGT Log No: _____	Date Received: _____
	Remedy Confirmed: _____	Remedy Unconfirmed: _____
	Screen Out: _____	Status Letter: _____ Resolved: _____

Claimant Name: _____ CDCR #: _____

Institution/Parole Region: _____ Current Housing/Parole Unit: _____

Use this form to ask for a remedy that was granted but is overdue.

Do not include new complaints on this form, they must first be filed with the Office of Grievances on a Form 602-1.

Claim No: _____

Date of Decision: _____

Description of Remedy: _____

This form must be submitted by mail to:
 Remedies Compliance Coordinator
 Department of Corrections and Rehabilitation
 P.O. Box 942883
 Sacramento, CA 95811

IMPORTANT:

The Remedies Compliance Program is only intended to resolve delays in the implementation of a remedy previously granted by the Office of Grievances or the Office of Appeals; it is not intended for new issues, to seek additional remedies, or to dispute the remedy provided.

When reviewing this request, the Office of Appeals will consider all of the supporting documentation you previously submitted to the Office of Grievances but will not consider any new documentation.

Therefore, it is recommended you not attach any documentation to this form.

Furthermore, any documentation you attach to this form will not be returned to you.

Claimant Signature: _____

Date Signed: _____

STAFF USE ONLY	Expedited? <input type="checkbox"/> Yes <input type="checkbox"/> No	Tracking #: _____
Staff Name and Title (Print) _____	Signature _____	Date _____

If you think you have a medical, mental health or dental emergency, notify staff immediately. If additional space is needed, use Section A of the CDCR 602 HC A Health Care Grievance Attachment. Only one CDCR 602 HC A will be accepted. You must submit this health care grievance to the Health Care Grievance Office for processing. Refer to California Code of Regulations (CCR), Title 15, Chapter 2, Subchapter 2, Article 5 for further guidance with the health care grievance process.

Do not exceed more than one row of text per line. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First, MI): _____	CDCR #: _____	Unit/Cell #: _____
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SECTION A:	Explain the applied health care policy, decision, action, condition, or omission that has had a material adverse effect upon your health or welfare for which you seek administrative remedy: _____ _____ _____ _____ _____ _____ _____ _____
-------------------	--

Supporting Documents Attached. Refer to CCR 3999.227 ☐ Yes ☐ No

Grievant Signature: _____	Date Submitted: _____
---------------------------	-----------------------

BY PLACING MY INITIALS IN THIS BOX, I REQUEST TO RECEIVE AN INTERVIEW AT THE INSTITUTIONAL LEVEL.

SECTION B: HEALTH CARE GRIEVANCE REVIEW INSTITUTIONAL LEVEL: Staff Use Only	Is a CDCR 602 HC A attached? <input type="checkbox"/> Yes <input type="checkbox"/> No
This grievance has been:	
<input type="checkbox"/> Rejected (See attached letter for instruction): Date: _____ Date: _____	
<input type="checkbox"/> Withdrawn (see section E)	
<input type="checkbox"/> Accepted Assigned To: _____ Title: _____ Date Assigned: _____ Date Due: _____	
Interview Conducted? <input type="checkbox"/> Yes <input type="checkbox"/> No Date of Interview: _____ Interview Location: _____	
Interviewer Name and Title (print): _____ Signature: _____ Date: _____	
Reviewing Authority Name and Title (print): _____ Signature: _____ Date: _____	
Disposition: See attached letter <input type="checkbox"/> Intervention <input type="checkbox"/> No Intervention	
HCGO Use Only: Date closed and mailed/delivered to grievant: _____	

<div style="display: flex; justify-content: space-between;"><div style="width: 30%;">1. Disability Code: <input type="checkbox"/> TABE score ≤ 4.0 <input type="checkbox"/> DPH <input type="checkbox"/> DPV <input type="checkbox"/> LD <input type="checkbox"/> DPS <input type="checkbox"/> DNH <input type="checkbox"/> DDP <input type="checkbox"/> Not Applicable</div><div style="width: 30%;">2. Accommodation: <input type="checkbox"/> Additional time <input type="checkbox"/> Equipment <input type="checkbox"/> SLI <input type="checkbox"/> Louder <input type="checkbox"/> Slower <input type="checkbox"/> Basic <input type="checkbox"/> Transcribe <input type="checkbox"/> Other*</div><div style="width: 30%;">3. Effective Communication: <input type="checkbox"/> Patient asked questions <input type="checkbox"/> Patient summed information Please check one: <input type="checkbox"/> Not reached* <input type="checkbox"/> Reached *See chrono/notes</div></div> <div style="margin-top: 10px;">4. Comments: _____</div>	STAFF USE ONLY
--	----------------

Tracking #:

SECTION C:	Health Care Grievance Appeal. If you are dissatisfied with the Institutional Level Grievance Response, explain the reason below (if more space is needed, use Section C of the CDCR 602 HC A), and submit the entire health care grievance package by mail for Headquarters' (HQ) Level health care grievance appeal review. Mail to: Health Care Correspondence and Appeals Branch, P.O. Box 588500, Elk Grove, CA 95758.
-------------------	---

Grievant Signature:	Date Submitted:
----------------------------	------------------------

SECTION D:	HEALTH CARE GRIEVANCE APPEAL REVIEW HQ LEVEL: Staff Use Only	Is a CDCR 602 HC A attached? <input type="checkbox"/> Yes <input type="checkbox"/> No
This grievance has been:		
<input type="checkbox"/> Rejected (See attached letter for instruction): Date: _____ Date: _____		
<input type="checkbox"/> Withdrawn (see section E) <input type="checkbox"/> Accepted		
<input type="checkbox"/> Amendment Date: _____		
Interview Conducted? <input type="checkbox"/> Yes <input type="checkbox"/> No Date of Interview: _____ Interview Location: _____		
Interviewer Name and Title (print): _____ Signature: _____ Date: _____		
Disposition: See attached letter <input type="checkbox"/> Intervention <input type="checkbox"/> No Intervention		
<i>This decision exhausts your administrative remedies.</i>		
HQ Use Only: Date closed and mailed/delivered to grievant:		

SECTION E:	Grievant requests to WITHDRAW health care grievance: I request that this health care grievance be withdrawn from further review. Reason:
-------------------	---

Grievant Signature:	Date Submitted:
----------------------------	------------------------

Staff Name and Title (Print):	Signature:	Date:
--------------------------------------	-------------------	--------------

<div>STAFF USE ONLY</div>

STAFF USE ONLY

Tracking #:

Attach this form to the CDCR 602 HC, Health Care Grievance, only if more space is needed. Only one CDCR 602 HC A may be used.

Do not exceed more than one row of text per line. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First, MI):

CDCR Number:

Unit/Cell Number:

SECTION A:

Continuation of CDCR 602 HC, Health Care Grievance, Section A only (Explain the applied health care policy, decision, action, condition, or omission that has had a material adverse effect upon your health or welfare for which you seek administrative remedy):

Grievant Signature: _____ Date Submitted: _____

SECTION B: Staff Use Only: Grievants do not write in this area. Grievance Interview Clarification. Document issue(s) clarified during interview.

Name and Title: _____ Signature: _____ Date : _____

STAFF USE ONLY

Grievant Signature: _____ **Date Submitted:** _____

Name and Title: _____ **Signature:** _____ **Date :** _____

STAFF USE ONLY

The California Prison and Parole Law Handbook, © 2024 Prison Law Office
Appendix 1-E, p. 2

I. PRE-INTERVIEW FILE/DECS REVIEW (STAFF ONLY)

I acknowledge that I have reviewed all relevant and reasonably available central file and/or field file information and the Disability and Effective Communication System (DECS) prior to first contact with the inmate/parolee involved in this parole proceeding. For revocation proceedings, this file review must include, at the minimum, a review of the CDCR Form 611 (revised 05/01) or a Parolee Disability Review Sheet (PDRS) and attached documents, if any.

Print Name: _____ Sign Name: _____ Date: _____

Identified Disabilities

☐ Mental Health Concerns (Circle One) CCCMS EOP MHCB DMH 128C dated: _____ ☐ DECS

☐ Developmental Disability (Circle One) DD1 D1A DD2 DD3 128C-2 dated: _____ ☐ DECS

☐ Physical Disability (Circle all that apply) (verified on CDCR Form 1845) Dated _____ ☐ DECS

Mobility: (DPW / DPO / DPM / DNM) **Vision:** (DPV / DNV) **Hearing:** (DPH / DNH) **Speech:** (DPS / DNS)

☐ Other Disability (that limits access): _____ document _____ dated: _____ ☐ DECS

☐ Learning Disability documented on _____ dated: _____ ☐ DECS

☐ **NO DISABILITIES IDENTIFIED FROM THE FILE/DECS REVIEW.**

Other Potential Assistance Needs:

☐ Reading Level _____ Total GPL _____ (If not available, note "N/A")

☐ Non-English Speaking (List language(s) inmate/parolee speaks): _____

II. INMATE/PAROLEE RIGHTS & SELF IDENTIFICATION

You have the right to receive help for your hearing. If you need help talking, reading, hearing, seeing, understanding or getting to your hearing, you have a right to that help. You have a right to receive help in meeting with your attorney. If you do not speak English, you have a right to an interpreter. If you are deaf and use sign language, you have a right to a sign language interpreter. If you cannot read, the BPH or CDCR must provide you with help to read the forms and papers. If you need special transportation, the BPH or CDCR must provide it for you. If you do not get help, or you do not think you got the kind of help you need, ask for a BPH 1074 Grievance Form. **IF YOU ARE CURRENTLY HOUSED IN A COUNTY JAIL**, and need assistance of any kind, you may ask the Deputy for help, or ask for a county jail grievance form.

Check all that apply:

☐ I need help reading my documents.

☐ I need the following help to hear _____

☐ I need help understanding the procedures and forms.

☐ I need the following help to see _____

☐ I need a sign language interpreter.

☐ I need to communicate in writing.

☐ I need a wheelchair and I ☐ do have one. ☐ do not have one.

☐ I do not speak English and need an interpreter in _____ (language).

☐ Other _____

☐ **I do not need any help for my parole hearing.**

X _____
Inmate/parolee signature

CDCR #

X _____
Date Signed

III. INITIAL SERVICE OF RIGHTS (STAFF ONLY)

☐ **I have requested an accommodation from county jail staff on behalf of the parolee. Accommodation:** _____

County Jail Name: _____ **Date jail staff was notified:** _____

I have informed inmate/parolee of his/her rights and charges, if any, and have determined that he/she:

☐ Appears to understand: ☐ without assistance / ☐ after assistance

☐ Appears to have difficulty understanding

☐ **Effective Communication Method Used:** ☐ Foreign Language Interpreter - Telephonic ☐ Foreign Language Interpreter - Contractor (In-Person)

☐ Foreign Language Interpreter - Certified DAPO Staff ☐ Sign Language Interpreter ☐ Read/Spoke Slowly ☐ Assistive Visual Device

☐ Assistive Hearing Device Additional Comments: _____

Staff Name and Title (please print) _____

Staff Signature _____

Date _____

IV. BPH REVIEW FOR INTERNAL USE ONLY (Non-Lifer Cases)

☐ **I have requested an accommodation from county jail staff on behalf of the parolee. Accommodation:** _____

County Jail Name: _____ **Date jail staff was notified:** _____

Accommodation(s)/Assistance to be provided at hearing(s): _____

Staff Name and Title (please print) _____

Staff Signature _____

Date _____

Name

CDCR#

TYPE OF HEARING

DATE OF HEARING

LOCATION

I. PRE-INTERVIEW FILE REVIEW (STAFF ONLY)

This section requires completion of a file review to determine whether or not the inmate/parolee (I/P) needs assistance with effective communication or has a disability which needs to be accommodated at the parole proceeding. The staff member shall print his/her name and date the form to acknowledge completion of the file review. (In revocation proceedings, the Agent must ensure either the CDCR 611 (05/01 or later) OR a Parolee Disability Review Sheet is in the field file.)

When initiating the form, it is important for the staff member to first write the I/P's name, CDCR number, the type of parole proceeding, and the institution/region/county jail where the I/P is located at the bottom of the form. **When completing this form, the staff member shall review the file for the corresponding source documents as indicated below and designated staff shall attach a copy when a verified/identified disability is noted.**

Mental Health Concerns – check this box if a CDCR 128C indicates the inmate/parolee is included in the Mental Health Services Delivery System. Circle the Level of Care and write the date of the chrono.

Developmental Disability – check this box if a CDCR 128C-2 indicates the I/P is included in the developmental disability program. He/she must be categorized in one of the following DDP categories: DD1, D1A, DD2 or DD3. Circle the appropriate code and write the date of the chrono. (If the code is NDD or DDO, do not check this box.)

Physical Disability – check this box if there is a CDCR 1845 which identifies a verified disability. Circle the appropriate disability (there may be more than one) and write the date of the CDCR 1845.

Other Disability – check this box if there is a document which states the I/P has a disability other than those identified on the forms indicated above. Write the name of the document and its date.

Learning Disability – check this box if there is a document which states the I/P has a learning disability. Write the name of the document and its date.

No Disabilities Identified from the file review. – If all of the above boxes are unchecked, check this box.

Reading Level – Check the box and write the I/P's reading level (if available) and his/her total grade point level (GPL). (If neither the reading level nor the GPL are in the file, do not check the box and write N/A.)

Non-English Speaking – If the I/P's primary language is not English, check this box and write the language he/she speaks as identified in the file review.

SPECIAL NOTE: If it has been determined in Section I an accommodation and/or interpreter is required, the employee shall provide that accommodation to the I/P prior to completing Section II. Sign language interpreters must be approved by the BPH.

II. INMATE/PAROLEE ADA RIGHTS AND SELF IDENTIFICATION

The staff member shall advise the inmate/parolee that he/she has a parole proceeding pending and the reason for the proceeding. The staff member shall read or ask the parolee to read out loud the rights statement at the beginning of this section.

The remaining portion of this section is for the inmate/parolee to disclose assistance he/she needs for the proceedings. If the parolee cannot complete this section, the staff member shall provide assistance by recording the responses given by the inmate/parolee.

III. INITIAL SERVICE OF RIGHTS (STAFF ONLY)

In this section, the staff member shall document his/her observations. The staff member shall document whether I/P appeared to understand his/her rights (described on the form handed out with the BPH 1073) and charges, if any. If after providing assistance for effective communication and the I/P still appears to have difficulty understanding, the staff member shall check the appropriate box. If an alternate method of communication is used, the staff member shall check the appropriate box and indicate the type of accommodation. Any observations from the interview the staff member believes are pertinent should be written in the "Additional Comments" portion of this Section.

IV. BPH REVIEW FOR INTERNAL USE (Non-Lifers Only)

In Revocation cases where a DRU is involved, DRU staff will complete this section. In cases where a DRU is not involved, the DC will complete this section as part of their review.

PRINTED ON BACK OF PAGE 1 OF BPH 1073 (FIRST PAGE OF NCR PAPER)

DEFINITIONS

Parole Proceedings means all BPH proceedings. They are also things that happen before or after the hearings. These may be:

- | | | |
|--|---|---------------------------|
| ▪ Service of Rights | ▪ Psychiatric Evaluations | ▪ Rescission Hearing |
| ▪ Attorney Consultations | ▪ SVP Hearing (Sexually Violent Predator) | ▪ In re Stanworth Hearing |
| ▪ Probable Cause Hearings | ▪ Documentation Hearing | ▪ Grievances |
| ▪ Revocation Hearing | ▪ Initial/Subsequent Hearing | ▪ Olson reviews |
| ▪ Revocation Extension Hearing | ▪ Progress Hearing | ▪ Lifer parole plans |
| ▪ MDO Hearing (Mentally Disordered Offender) | | |

Qualified means that you have a disability that is protected by the Americans with Disabilities Act (ADA). Your disability is a condition that is much worse than the average person. This means you cannot see **hear, walk, talk, breathe, learn, think, work, OR take care of yourself** without help.

TYPES OF ACCOMMODATIONS

Reasonable Accommodation means the kind of help you need at hearings. This may be help getting to, talking at, or understanding the hearing. Some kinds of help may include:

1. Alternative formats:

You may ask for BPH forms in Braille, audiocassette, or large print. Most BPH forms have been changed to simple English. The BPH Forms that were not changed will come with an explanation in simple English.

2. Auxiliary Aids and Services: Below are the types of accommodations that may be available if you have a qualified disability. You may ask for an accommodation by using the BPH 1073 form.

<u>Hearing Impairment</u> <u>(hearing)</u>	<u>Vision Impairment</u> <u>(seeing)</u>	<u>Learning Disabilities</u> <u>(learning)</u>
<ul style="list-style-type: none"> ❖ Assistive Hearing Devices ❖ Qualified Sign Language Interpreters ❖ Telecommunications devices for deaf persons (TDD's) ❖ Telephone handset amplifiers ❖ Computer-aided transcription services ❖ Closed caption decoders ❖ Open and closed captioning ❖ Videotext displays ❖ Exchange of written notes ❖ Note takers 	<ul style="list-style-type: none"> ❖ Magnifying Devices ❖ Large print materials ❖ Audiocassettes ❖ Brailled materials ❖ Assistance navigating and locating items ❖ Qualified readers 	<ul style="list-style-type: none"> ❖ Staff Assistance ❖ Legal counsel ❖ Highlighter pens and markers ❖ Audio taped materials ❖ Regional Center advocates ❖ Reading windows, rulers, or angled book stands ❖ Qualified readers
<u>Speech Impairment</u> <u>(talking)</u>	<u>Mobility Impairments</u> <u>(walking)</u>	<u>Mental Impairments</u> <u>/Developmental Disabilities</u> <u>(thinking)</u>
<ul style="list-style-type: none"> ❖ Staff Assistance ❖ TDD machines ❖ Computer terminals ❖ Speech synthesizers ❖ Communication books or boards ❖ Qualified interpreters 	<ul style="list-style-type: none"> ❖ Accessibility ❖ Wheelchair ❖ Cane 	<ul style="list-style-type: none"> ❖ Staff assistance ❖ Legal counsel ❖ Regional Center advocates ❖ Qualified interpreters

PRINTED ON BACK OF PAGE 1 OF BPH 1073 (FOURTH PAGE OF NCR PAPER)

REQUEST FOR REASONABLE ACCOMMODATION - GRIEVANCE PROCESS

BPH 1074

Log Number: _____

A.**INMATE OR PAROLEE TO COMPLETE BEFORE THE HEARING**

You have been given a state attorney to help you in preparation for and during your hearing. Fill out this form only if you did not get the other kinds of help for your disability that you asked for on your BPH Form 1073 or if new problems came up. You can ask your attorney or staff for help in filling out this form. If you need more space attach another sheet of paper.

1. Your complaint: _____

2. What you want done: _____

Before the hearing, you should send this form as soon as possible to the BPH ADA Coordinator at 1515 K Street, Suite 600, Sacramento CA 95814, or give this form to a staff person, or your Attorney to send to the BPH ADA Coordinator. The decision will be sent to you within five (5) days from the date it was received by the ADA Coordinator, or before your parole proceeding (which ever comes first).

X

(Print name)

(Inmate or parolee sign here)

CDCR Number

Date

B.**RESPONSE TO A GRIEVANCE FILED BEFORE THE HEARING**

Date received by BPH: _____

Decision☐ **Granted**☐ **Granted with Changes**☐ **Denied**☐ **No Action Required**

DISCUSSION OF FINDINGS: _____

BASIS FOR DECISION: _____

BPH ADA Coordinator/Designee Signature

Date Completed

INSTRUCTIONS TO INMATE OR PAROLEE

If you have already had your hearing, did not like the decision made about the kind of help given, and want a new hearing, then fill out Section C, on page 2.



REQUEST FOR REASONABLE ACCOMMODATION - GRIEVANCE PROCESS

BPH 1074

Log Number: _____

C.**INMATE OR PAROLEE TO COMPLETE AFTER THE HEARING**

☐ I did not get all the help with my disability that I needed during the hearing. Earlier, I requested that help on the BPH Form 1073, or a new disability problem came up at the hearing. I need a new hearing with more help, because: _____

Inmate/Parolee Print Name _____

Inmate/Parolee Sign Here _____

CDCR Number _____

Date _____

D.**RESPONSE TO A GRIEVANCE FILED AFTER THE HEARING**

Date Received by Quality Control Unit: _____

Type of Parole Proceeding: _____

Decision☐ **Granted**☐ **Granted with Changes**☐ **Denied**☐ **Dismissed**

Chief Deputy Commissioner/Designee Signature _____

Date Completed _____

E.**TO INMATE OR PAROLEE**

1. After the hearing the inmate, parolee, or their attorney may file the grievance, concerning denial of disability accommodations at the hearing, by mailing this form to:

Board of Parole Hearings
Quality Control Unit
1515 K Street, Suite 600
Sacramento, CA 95814

2. All ADA grievances related to parole revocations shall be answered within 10 days from the time they were received at BPH.
3. All ADA grievances for life prisoners shall be answered within 30 days from the time they were received at BPH.

NAME

CDC NUMBER

TYPE OF PROCEEDING

DATE OF PROCEEDING

LOCATION

Form to contest disqualification by BPH as a “youth offender” under California Penal Code section 3051.

TO CONTEST A PC § 3051 YOUTH OFFENDER DISQUALIFICATION, PLEASE COMPLETE THE FORM BELOW AND MAIL IT TO: **BOARD OF PAROLE HEARINGS, P.O. BOX 4036, SACRAMENTO, CA 95812**

PART ONE: What is the inmate’s date of birth? _____

PART TWO:

1. For what **crime** did the inmate receive the longest single sentence (not including any enhancements)? _____
What was the length of the sentence for only that **crime**? _____
2. For what **single enhancement** did the inmate receive the longest single sentence? _____
What was the length of the sentence for only that **enhancement**? _____

If the sentence length in #1 is longer, then the **CRIME** listed in #1 is the “controlling offense.”

If the sentence length in #2 is longer, then the **ENHANCEMENT** listed in #2 is the “controlling offense.”

PART THREE:

CIRCLE YOUR ANSWER:

Did the inmate commit the “controlling offense” after turning 23 years old?

NO

YES

(If **NO**, continue to Part Four)

(NOTE: if you circled “YES,” the inmate does not qualify as a “youth offender”)

PART FOUR:

CIRCLE YOUR ANSWER:

Was the inmate sentenced for the “controlling offense” under three strikes?

NO

YES

(If **NO**, continue to Part Five)

(NOTE: if you circled “YES,” the inmate does not qualify as a “youth offender”)

PART FIVE:

CIRCLE YOUR ANSWER:

Did the inmate commit any crimes after turning 23 for which a court sentenced him/her to a life term?

NO

YES

(If **NO**, continue to Part Six)

(NOTE: if you circled “YES,” the inmate does not qualify as a “youth offender”)

PART SIX:

CIRCLE YOUR ANSWER:

Did the inmate commit any of the crimes after turning 23 for which “malice aforethought” is a necessary element of the crime, as defined in the penal code?

NO

YES

(If **NO**, please submit this completed form to the Board of Parole Hearings for reconsideration, which may or may not result in a different determination.)

(NOTE: if you circled “YES,” the inmate does not qualify as a “youth offender”)

INMATE’S NAME: _____ **CDCR #:** _____ **DATE:** _____

PERSON COMPLETING FORM: _____ **SIGNATURE:** _____
(Print name of Inmate or Legal Representative)

