



PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

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Kathleen Richard
Paralegal
Department of Correction Legal Division
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Re: DOC LISTENING SESSIONS -- PLS COMMENT ON 103 CMR 491

Dear Ms. Richard:

Prisoners' Legal Services of Massachusetts thanks the Department of Correction for the opportunity to provide comments on Department regulations, via the 2015 Listening Sessions. PLS proposes modest changes to 103 CMR 491, *Inmate Grievances*, which would help ensure that grievances are timely filed, processed, and acted upon, and would improve the integrity of the process.

A common concern expressed by prisoners is that they are unable to maintain copies of grievances they file, or of grievance appeals. 103 CMR 491.10(1)(a) provides that the institutional grievance coordinator will acknowledge receipt of a filed grievance, but it does not specify that a copy of the grievance will be provided. Section 491.10(5) does state that a copy of the grievance shall be returned to the prisoner, but the copy comes only with the IGC's response. If the original grievance is misplaced before a response is generated, is not responded to for some reason, or if the response does not make its way to the prisoner, the prisoner is unable to follow up with anyone by showing that he or she filed it in timely fashion. Moreover, the copy that comes with the IGC's response is often a truncated version (entered into IMS) that does not contain the complete narrative.

A similar problem accompanies the grievance appeal. Pursuant to Section 491.12(1), a prisoner must submit the underlying grievance with the appeal form; that means he or she must provide the one copy of the original grievance that he or she just received with the IGC's decision.

It used to be more common for prisoners to make photocopies of their grievance or appeal forms at the library, but recently there appears to be a narrower interpretation of the "legal documents" eligible for photocopying pursuant to 103 CMR 478.11(4)(a) – an interpretation that excludes grievance forms.

The integrity of the grievance system would be enhanced if the policy ensured that prisoners had a copy of each grievance or appeal form they file, at the time that they file it. Prisoners should be able to maintain these papers for their own records, just as they might do with copies of other institutional records, such as disciplinary reports and classification reports (both of which are required by regulation to be provided to the prisoner). Moreover, if any confusion arises about whether or when a prisoner filed a grievance or appeal, or which issues were raised therein, he or she ought to be able to refer to his or her own copy of that form. Finally, having a copy of each filed grievance would permit the prisoner to

monitor how many grievances he or she has filed, and their subject matter, so as to avoid running afoul of the regulation's rules against repetitious (§ 491.17(1)) or voluminous (§§ 491.17(2) and (3)) grievances.

Accordingly, 103 CMR 491 should be amended to specify that the prisoner will have a copy of the form he or she is submitting, upon submission. This could be done via photocopying (by the IGC or made available to the prisoner), or through a grievance form that comes in duplicate, as is done in some county facilities.