 ARIZONA DEPARTMENT OF CORRECTIONS  DEPARTMENT ORDER MANUAL	CHAPTER: 800  INMATE MANAGEMENT	OPR:  OPS
	DEPARTMENT ORDER: 802  <i>INMATE GRIEVANCE PROCEDURE</i>	SUPERSEDES:  DO 802 (3/3/2000)
		EFFECTIVE DATE:  JULY 13, 2009

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## PURPOSE

The Department provides inmates with access to an Inmate Grievance Procedure to provide opportunity for informal resolution and a formal review of an issue impacting conditions of confinement or institutional life that personally affect the inmate grievant. This Department Order provides timely, administrative remedies to inmate complaints which might otherwise unnecessarily burden the courts.

## RESPONSIBILITY

All Department staff are responsible for promoting meaningful dialogue and timely written communication with inmates to resolve inmate complaints and disputes at the lowest possible level in the organization and at the earliest possible opportunity.

The Division Director for Offender Operations is responsible for the overall operation of the Inmate Grievance Procedure. Under the direction of the General Counsel, the Central Office Appeals Unit Administrator and Appeals Officers are responsible for monitoring the effectiveness of the procedure and ensuring that all appeals are presented to the Director for review. Wardens are responsible for ensuring that they serve as the first level of appeal in the grievance process, and Department staff follow all procedures outlined in this Department Order.

## PROCEDURES

### 802.01 GENERAL INFORMATION

- 1.1 The Inmate Grievance Procedure is designed to address inmate complaints related to any aspect of institutional life or condition of confinement that directly and personally affects the inmate grievant including Department Orders, Director's Instructions, Institution and Post Order, Technical Manuals and written instructions, procedures and the actions of staff.
- 1.2 The following are not grievable under the Inmate Grievance Procedure:
  - 1.2.1 Actions of the Governor or State Legislature.
  - 1.2.2 Decisions of the Board of Executive Clemency.
  - 1.2.3 Judicial proceedings or decisions of the Courts.
- 1.3 The Inmate Grievance Procedure does not serve as a duplicate appeal process or substitute appeal process for the following, which have independent appeal processes:
  - 1.3.1 Disciplinary Hearing Process outlined in Department Order #803, Inmate Discipline Procedures.
  - 1.3.2 Publication Screening and Review outlined in Department Order #914, Inmate Mail.
  - 1.3.3 Protective Segregation outlined in the written instruction for Protective Segregation.

- 1.3.4 Security Threat Group Validation outlined in Department Order #806, Security Threat Groups (STGs).
- 1.3.5 Classification action outlined in Department Order #801, Inmate Classification.
- 1.4 Inmates who attempt to file grievances and appeals for actions outlined in 1.3 of this section will be instructed to follow the appeal process outlined in that specific Department Order or written instruction. Appeals to the Central Office Appeals Unit on these actions may be considered only if the primary issue is outside the scope of the established appeals process.
- 1.5 Pursuant to the Prison Litigation Reform Act of 1996 (PLRA), inmates shall completely exhaust the Department's internal grievance and administrative processes prior to filing any complaint with any State Board or Federal Court.
- 1.6 Inmates may utilize the Inmate Grievance Procedure regardless of any disciplinary status, housing location or classification. Appropriate provisions shall be made to ensure that inmates who are not fluent in English, persons with disabilities, those with low literacy levels, the elderly and the mentally ill have access to the Inmate Grievance Procedure.
- 1.7 Wardens shall ensure that there are no barriers for inmate access to Inmate Grievance forms and that inmates have the ability to file grievances and appeals in a timely and confidential manner.
- 1.8 Inmates may use the Inmate Grievance Procedure to file "Emergency Grievances".
  - 1.8.1 An inmate may file an emergency grievance when a condition exists that, if processed through the normal grievance time frames, would subject the inmate to substantial risk of medical harm, personal injury or cause other serious and irreparable harm.
  - 1.8.2 Sections 802.02 and 802.03 of this Department Order refer to the grievance procedure as a written procedure. As such, it may not be conducive to resolving true emergencies. Inmates should utilize other available means such as letters and verbal notifications to notify staff of an emergency. The Facility Health Administrator has the final authority in determining whether a grievance will be processed as an Emergency Grievance.
  - 1.8.3 Any Informal Complaint or Formal Grievance received by staff marked as an "emergency" shall be immediately evaluated through the chain of command to determine whether it is an emergency as defined in this Department Order and requires immediate response outside of Grievance Procedure time frames.
- 1.9 A staff person receiving an Informal Complaint or Formal Grievance at any level that describes activity that may be in violation of the Sexual Assault Procedure shall immediately initiate PREA procedures and notify the shift commander who shall notify the unit Deputy Warden or institution Warden.

- 1.10 Inmates may file grievances and appeals directly to the Warden when the content of the grievance is of a nature that would pose a threat to the safety of the inmate, staff, or other inmates if the grievance were filed through established procedures.
- 1.11 Unless notified of an extension of time frames, expiration of any time limit for a response at any stage in the process shall entitle the inmate grievant to move to the next step in the process. Extensions at any step in the grievance process shall not exceed 15 working days.

## **802.02            INFORMAL COMPLAINT RESOLUTION**

- 1.1 Inmates shall attempt to resolve their complaints through informal means including, but not limited to, discussion with staff in the area most responsible for the complaint or the submission of Inmate Letters.
- 1.2 In the event that an inmate is unable to resolve their complaint through informal means, he/she may submit an Informal Complaint on an Inmate Letter, Form 916-1, to the Correctional Officer (CO) III in their respective unit. The Informal Complaint must be submitted within 10 workdays from the date of the action that caused the complaint. The inmate shall attach copies of all documentation to support his/her complaint
- 1.3 The CO III shall:
  - 1.3.1 Investigate and attempt to resolve the complaint informally.
  - 1.3.2 Provide a response to the inmate within 15 work days using the Inmate Letter Response, Form 916-2.
  - 1.3.3 For Medical Grievances, contact the appropriate medical staff to attempt to resolve the complaint.
- 1.4 The inmate may file a Formal Grievance if he/she is dissatisfied with the Informal Complaint resolution response from the CO III. In the event that the CO III has not attempted to resolve the problem for the inmate, the grievance shall be returned to the CO III for further action.

## **802.03            FORMAL GRIEVANCE PROCESS**

- 1.1 An inmate may file a Formal Grievance should he/she be unable to resolve their complaint informally. The inmate has five work days from receipt of the response from the CO III to submit a Formal Grievance to the Grievance Coordinator using the Inmate Grievance, Form 802-1.
- 1.2 The inmate shall place a single complaint with related issues on a single Inmate Grievance form. If the inmate includes multiple unrelated issues on a single form, the submission of the grievance shall be rejected and returned as unprocessed.
- 1.3 The inmate shall submit the Inmate Grievance form to the unit CO IV unit Grievance Coordinator. The CO IV shall log and assign a number to each Inmate Grievance using the Unit Coordinator Grievance Log, Form 802-9.

- 1.4 The CO IV may request that an additional investigation be conducted, and may assign any unit staff member to the investigation to aid in the resolution of the grievance. The inmate shall be notified in writing of any extensions as outlined in 802.01, 1.11 of this Department Order.
- 1.5 Within 15 working days following receipt of the Formal Grievance, the Deputy Warden shall issue a written response to the inmate.
  - 1.5.1 The written response to the inmate shall include:
    - 1.5.1.1 A summarization of the inmate's complaint.
    - 1.5.1.2 A description of what action was taken to investigate the complaint.
    - 1.5.1.3 A summary of the findings.
    - 1.5.1.4 The decision and supporting rationale in reaching that decision.
  - 1.5.2 The decision from the unit level shall either be "Resolved" or "Not Resolved".
  - 1.5.3 Should the response indicate that the grievance is "Not Resolved" due to a Department or institution written instruction, the specific Department Order, Director's Instruction, Institution or Post Order or other written instruction or directive shall be noted in the response.
  - 1.5.4 The Deputy Warden shall sign the written response to the inmate. Any attachments shall remain with the original grievance form.
- 1.6 Upon receipt of any Medical Grievance, the CO IV shall immediately forward the form to the Facility Health Administrator (FHA). Within 15 work days of receipt, the FHA shall:
  - 1.6.1 Investigate the complaint.
  - 1.6.2 Personally meet with the inmate submitting the Formal Grievance prior to preparing a written response. An attempt shall be made during the meeting to mutually resolve the grievance issue consistent with the essential medical needs of the inmate and the provision of medical services established by existing standards of required care and the system of written instructions.
  - 1.6.3 Provide the inmate with a written response specifying the reason(s) for the decision, and the date and content of the personal meeting conducted as outlined in 1.6.2.
  - 1.6.4 Return the documentation to the inmate through the unit CO IV Grievance Coordinator.

**802.04 FIRST LEVEL APPEAL TO THE WARDEN/HEALTH SERVICES REGIONAL OPERATIONS DIRECTOR**

- 1.1 Within five work days of receiving the Formal Grievance response for the Deputy Warden, the inmate may elect to Appeal the decision by submitting a Inmate Grievance Appeal, Form 802-3 to the Warden.
- 1.2 The Warden shall review the inmate's Formal Grievance and Informal Complaint resolution, the investigation and the response signed by the Deputy Warden. The Warden may return the Inmate Grievance to the Deputy Warden or CO IV for an additional investigation.
- 1.3 Within 20 work days, the Warden or designee shall issue a written response to the inmate that either affirms or reverses the decision of the Deputy Warden. Should the Warden reverse the decision of the Deputy Warden, the Warden shall provide the inmate with written notification of what corrective action is being taken.
- 1.4 The Warden's office shall ensure that appropriate remedies for valid grievances are provided, which may include, but not limited to, changes in unit and institution procedures, recommendations for changes to Department Orders or Director's Instructions and corrective action taken on the inmate's specific issue, such as correction to the inmate's account, location of lost property, etc.
- 1.5 Each institution has the authority to adjust grievance claims for inmate property loss that have an adjusted value up to and including \$450 per occurrence. The inmate must initiate the claim by filing an Inmate Grievance. Resolution shall be in accordance with the established Risk Management Procedures.
- 1.6 Medical Grievances may not be appealed to the Warden. The FHA shall immediately forward any Medial Grievance Appeal to the Health Services Regional Operations (HSROD) Director for investigation and response.

**802.05 APPEALS TO THE DIRECTOR**

- 1.1 Within five work days from the date that the inmate received the decision of the Warden or HSROD, the inmate may elect to appeal the decision of the Warden/HSROD to the Director. Inmates may not file an appeal to the Director until the Grievance Procedure within their assigned unit and institution has been exhausted.
- 1.2 The inmate shall submit the Inmate Grievance Appeal form to the CO IV who shall log, process and forward all documents to the Central Office Appeals Officer within five workdays of receiving the appeal from the inmate.
- 1.3 The Appeals Officer may return any Grievance Appeal to the unit for further investigation or which does not meet the requirements of this Department Order.
- 1.4 Within 30 calendar days of receiving the Inmate Grievance Appeal, the Central Office Appeals Officer shall prepare a response and submit it to the Director for signature.
- 1.5 The Health Services Bureau Administrator shall:
  - 1.5.1 Review all Medial Grievances in consultation with Department physicians and contracted physicians as necessary.

- 1.5.2 Prepare a response and submit it to the Director for signature.
- 1.6 Rationale used to reach decisions pertaining to Inmate Grievance Appeals shall be included in the response sent to the inmate, with a copy to the Warden, and shall specify whether the decision of the Wardens is:
  - 1.6.1 Affirmed.
  - 1.6.2 Partially affirmed.
  - 1.6.3 Reversed.
- 1.7 The Director may delegate signature authority for any and all Grievance Appeal responses.
- 1.8 The decision of the Director is final and constitutes exhaustion of all remedies within the Department.

**802.06 INTERSTATE COMPACT AND CONTRACT BED GRIEVANCES**

- 1.1 Inmates housed out-of-state through Interstate Compact Agreements or assigned to a contract bed facilities in-state or out-of-state shall be provided an opportunity to file Inmate Grievances and Appeals.
- 1.2 Inmate shall first attempt to resolve issues using the Informal and Formal Grievance Procedures made available to them at the institution and/or State in which they are housed. Complaints related to issues of basic daily living, such as food, clothing and property, shall first be addressed to the facility or jurisdiction where the inmate is being housed. Only issues specifically related to an action by the Arizona Department of Corrections may be elevated to a Formal Grievance.
- 1.3 Interstate Compact Inmates - For inmates transferred through Interstate Compact, the Interstate Compact Supervisor shall act in the capacity of the Deputy Warden and shall complete all steps outlined in section 802.03 of this Department Order. The Central Office Security Operations Administrator or designee shall act in the capacity of the Warden for the first level of the Inmate Grievance Appeals as outlined in section 802.04 of this Department Order.
- 1.4 Contract Bed Inmates - For inmates housed in contract bed facilities, whether in state or out-of-state, the Department Contract Monitor shall ensure that the contracted facility has a meaningful grievance procedure that affords inmates the opportunity to resolve issues at the local level.
  - 1.4.1 The Contract Monitor shall act in the capacity of the Deputy Warden as outlined in section 802.03 of this Department Order.
  - 1.4.2 The Contract Beds Administrator or designee shall act in the capacity of the Warden for first level Inmate Grievance Appeals as outlined in section 802.04 of this Department Order.
  - 1.4.3 The contracted prison Health Administrator shall process the Inmate Grievance as the Complex FHA.

- 1.5 Consideration shall be given to inmates being housed out-of-state, and the time frames for filing of Inmate Grievances and Appeals may be waived accordingly.

## **802.07 INMATE ABUSE OF GRIEVANCE PROCEDURE**

- 1.1 An inmate abuses the Inmate Grievance Procedure when he/she does any of the following during the Informal Complaint, Grievance, or Appeal process:

- 1.1.1 Threatens serious bodily harm to staff, inmates or the general public.
- 1.1.2 Files multiple grievances on the same issue(s) at the same time or without waiting for a response.
- 1.1.3 Files in excess of five grievances in any one month that are determined to be frivolous by the CO IV and the Central Office Appeals Officer. A grievance is frivolous if clearly on its face it is devoid of merit and is a detriment to the orderly operation of the Grievance Procedure.
- 1.1.4 Includes false allegations that are determined to have been malicious.

- 1.2 Should an inmate demonstrate abuse of the grievance process, the Warden or FHA may recommend to the Central Office Appeals Officer or the Health Services Bureau Administrator that action be taken to restrict the inmate's access to the grievance process.

- 1.2.1 These restrictions may include, but are not limited to:
  - 1.2.1.1 Limiting the inmate's access to the Inmate Grievance form.
  - 1.2.1.2 Returning the grievances and appeals to the inmate.
- 1.2.2 Restrictions shall be temporary in nature and subject to review.
- 1.2.3 The Central Office Appeals Officer shall:
  - 1.2.3.1 Provide the inmate with a written notice that details the restrictions, the reasons for the decision and the duration of the restrictions.
  - 1.2.3.2 Maintain a current list of inmates and their restrictions and forward a copy to the Wardens weekly.

- 1.3 The Deputy Warden, in consultation with the Warden and the Central Office Appeals Officer may recommend that an inmate receive disciplinary action for abusing the Inmate Grievance process as outlined in Department Order #803, Inmate Disciplinary System.

## **802.08 PROTECTION AGAINST REPRISAL**

- 1.1 Retaliation or threat of retaliation for use of the Inmate Grievance Procedure is strictly prohibited. The inmate may pursue any alleged or threatened retaliation through the Inmate Grievance Procedure. Employees found to be in violation of this section shall receive disciplinary action as outlined in Department Order #601, Administrative Investigations and Employee Discipline.

- 1.2 Failure of an inmate to substantiate his/her grievance allegations shall not, by itself, be used as grounds to initiate disciplinary action against the inmate. If it is found that the inmate has intentionally falsified information in the Informal Complaint, Grievance or Appeal, the CO IV may recommend disciplinary action after consultation with the Central Office Appeals Administrator.
- 1.3 Staff responses to inmate Informal Complaints, Grievances and Appeals shall be professional and shall not include any demeaning or degrading language or inappropriate remarks.
- 1.4 All documents relating to the Inmate Grievance Procedure are confidential and shall not be shared with any other inmate or staff member outside of the investigative and appeal process.

## **802.09 ORIENTATION AND TRAINING**

- 1.1 A written explanation and instructions for the use of the Inmate Grievance Procedure shall be made available to all staff. Both an oral and written explanation of the Inmate Grievance process shall be made available to all new staff at Employee Orientations and shall be included in the COTA curriculum.
- 1.2 Inmates shall receive a written and oral explanation of the Inmate Grievance Procedure in reception centers and as part of the orientation process in any subsequent facility.

## **802.10 REPORTING AND RECORDS REQUIREMENTS**

- 1.1 The Warden shall designate staff at their institution and ensure that Deputy Wardens designate a staff member at their unit to record and enter information regarding Inmate Grievances into the Monthly Statistical Report, Form 802-10.
- 1.2 The Central Office Appeals Administrator shall collect and review Monthly Statistical Report data and evaluate the effectiveness of the grievance process.
- 1.3 The Central Office Appeals Administrator shall conduct an annual assessment of the Inmate Grievance Procedure. Comments shall be solicited from staff and inmates and shall be summarized in the assessment report. This report shall be due on or before June 30 of each year and shall reflect information for the preceding fiscal year.
- 1.4 The Grievance Coordinator and Appeals Offers at each unit and Central Office shall maintain all grievance records in a confidential and secure storage area. Inmate Grievances and Appeals are confidential and shall not be included in the Inmate Master File or any institutional file.
- 1.5 Inmate Grievance records shall be maintained for five years following the date of the last appeal response.

## **DEFINITIONS**

**GRIEVANCE-** A complaint filed by an inmate related to any aspect of institutional life or conditions of confinement that personally affects the inmate grievant

**INFORMAL RESOLUTION** - Any attempt to resolve a complaint prior to attempting to resolve the issue through a formal process.

**MEDICAL GRIEVANCE** - A complaint related to health care issues including but not limited to medical, dental, psychological, psychiatric services, and related medical staff.

**UNPROCESSED** - A condition which results from the paper work addressing a particular issue being returned to an inmate without being assigned a case number or being processed in any manner.

{Original Signature on File}

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CHARLES L. RYAN  
DIRECTOR

### **ATTACHMENTS**

- Attachment A - Standard Grievance Process
- Attachment B - Emergency Grievance Process
- Attachment C - Medical Grievance Process
- Attachment D - Staff Grievance Process
- Attachment E - Department Written Instructions Grievance Process

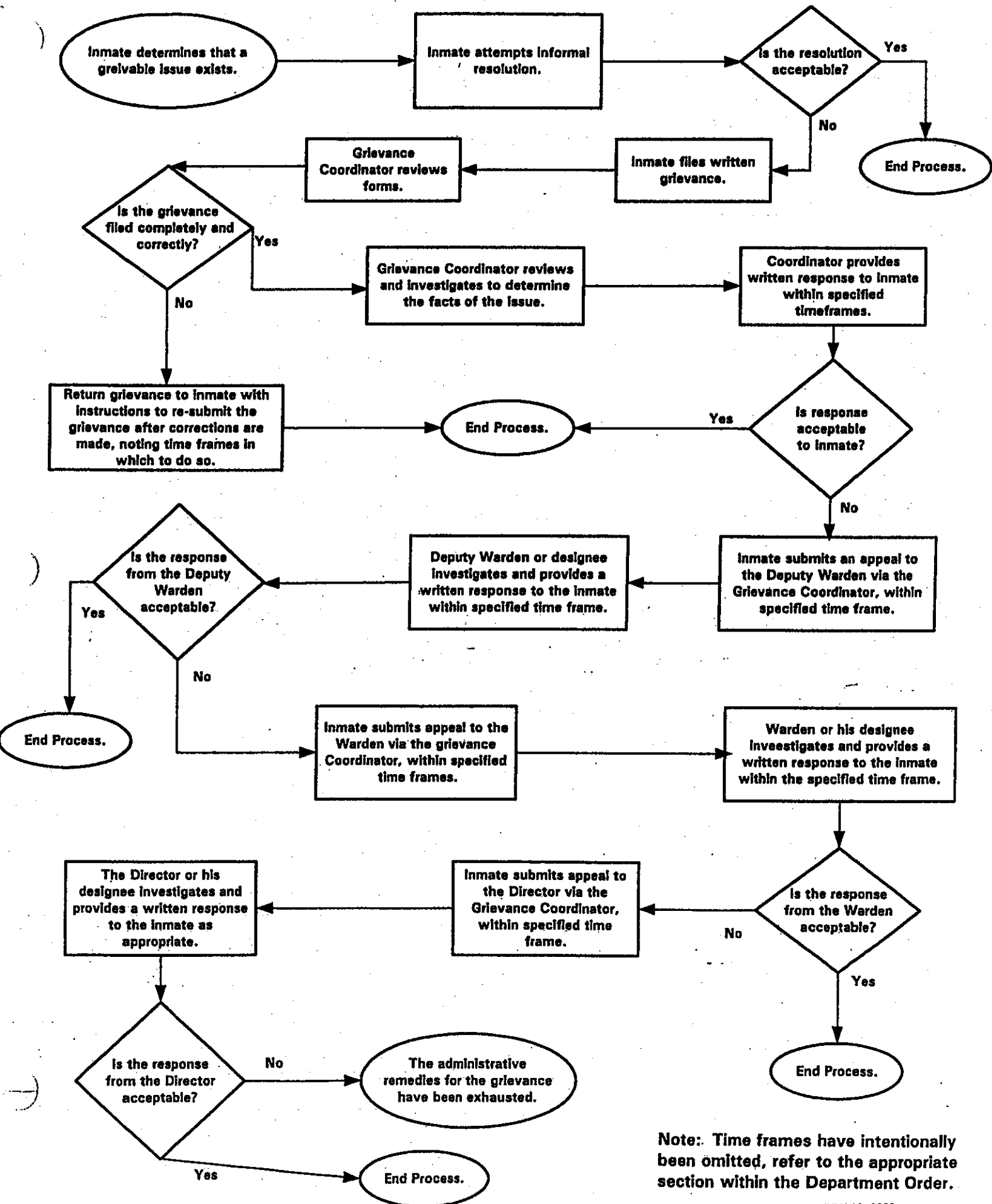
### **FORMS LIST**

- 802-1, Inmate Grievance
- 802-2S, Inmate Grievance (Spanish)
- 802-3, Inmate Grievance Appeal
- 802-4S, Inmate Grievance Appeal (Spanish)
- 802-5, Inmate Grievance/Investigation Report
- 802-6S, Inmate Grievance/Investigation Report (Spanish)
- 802-7, Supplement
- 802-8S, Supplement (Spanish)
- 802-9, Unit Coordinator Grievance Log

### **AUTHORITY**

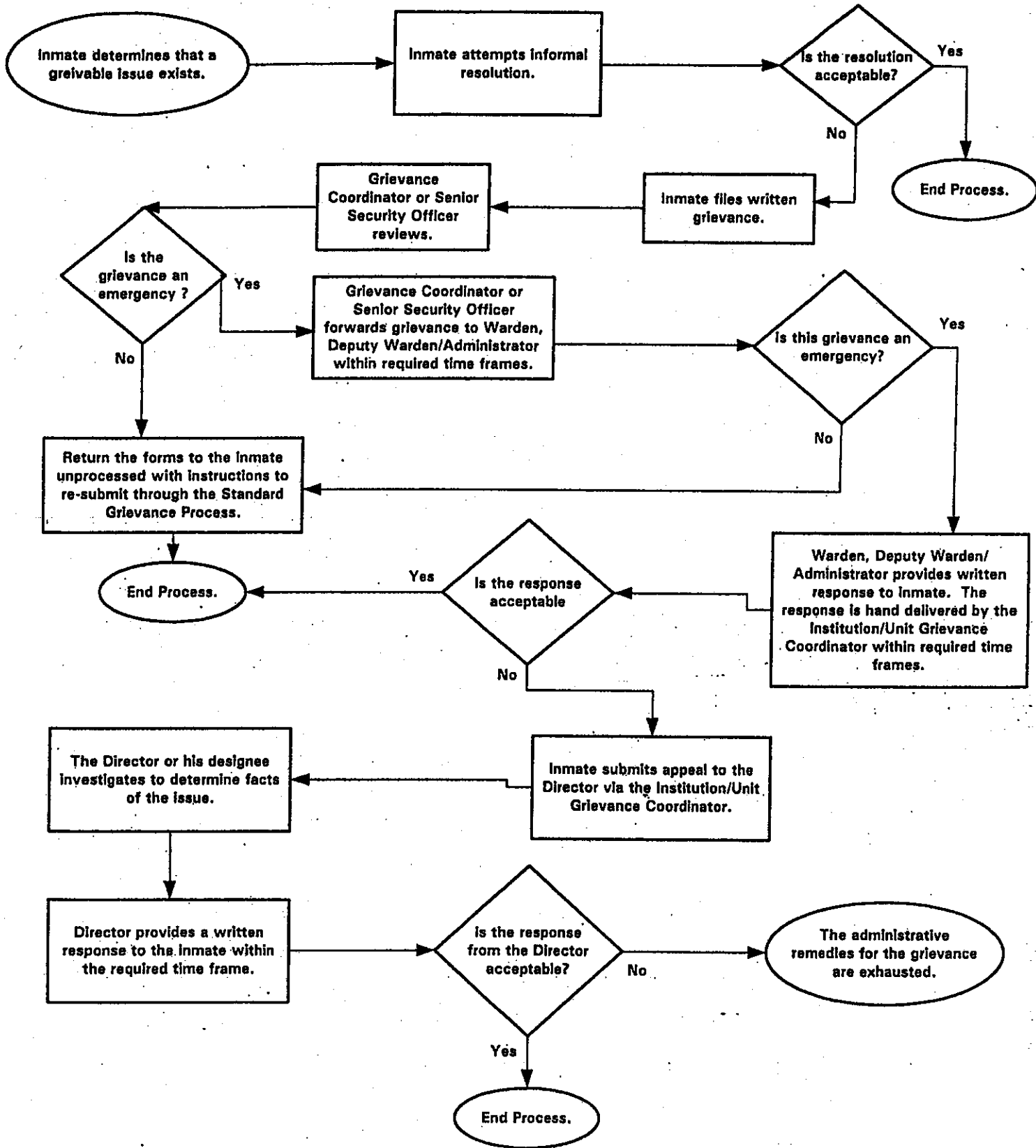
28 CFR Part 40, Order 957-81, Standards for Inmate Grievance Procedures.

# Inmate Grievance - Standard Grievance Process



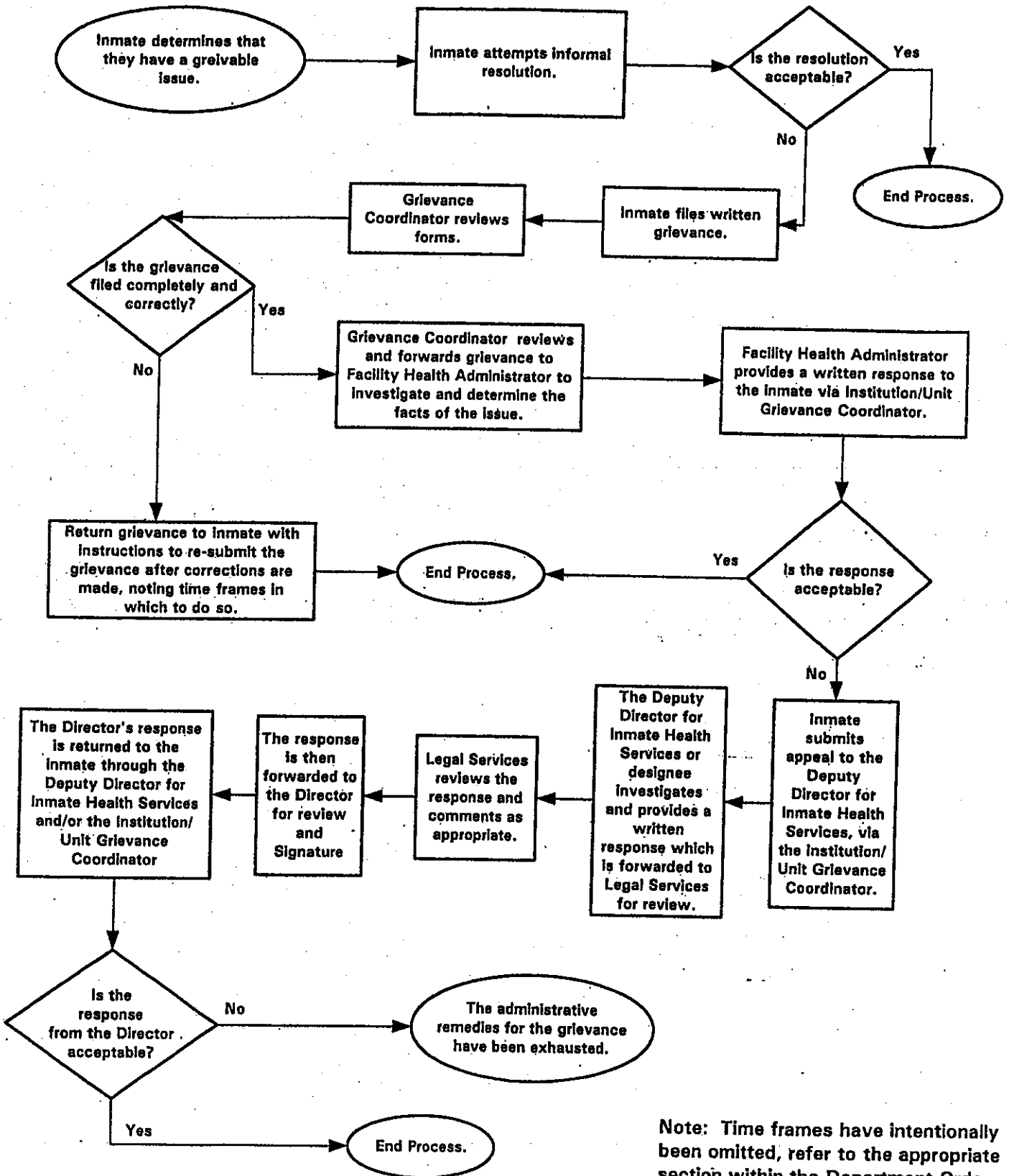
Note: Time frames have intentionally been omitted, refer to the appropriate section within the Department Order.

# Inmate Grievance - Emergency Grievance Process



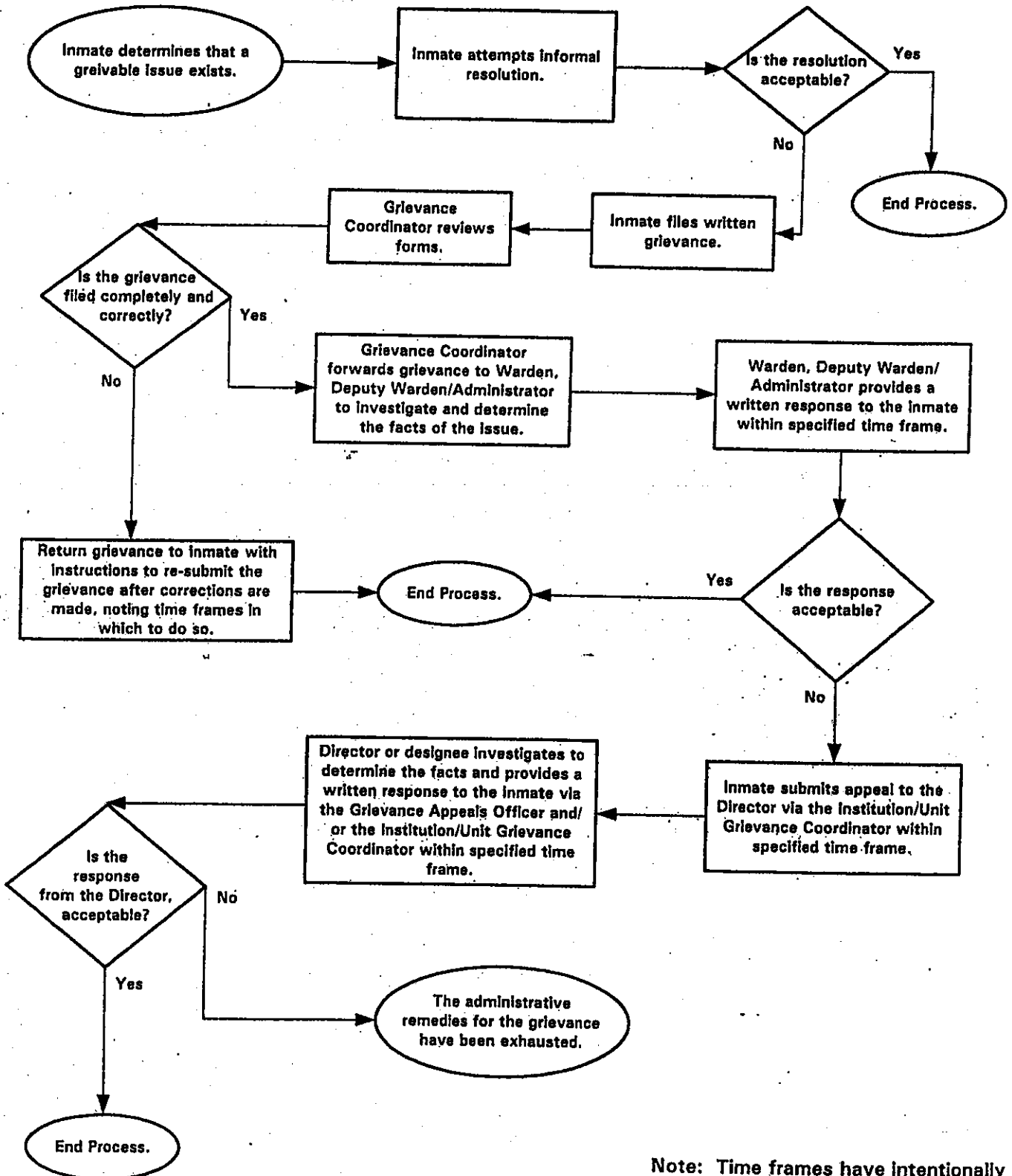
Note: Time frames have intentionally been omitted, refer to the appropriate section within the Department Order.

# Inmate Grievance - Medical Grievance Process



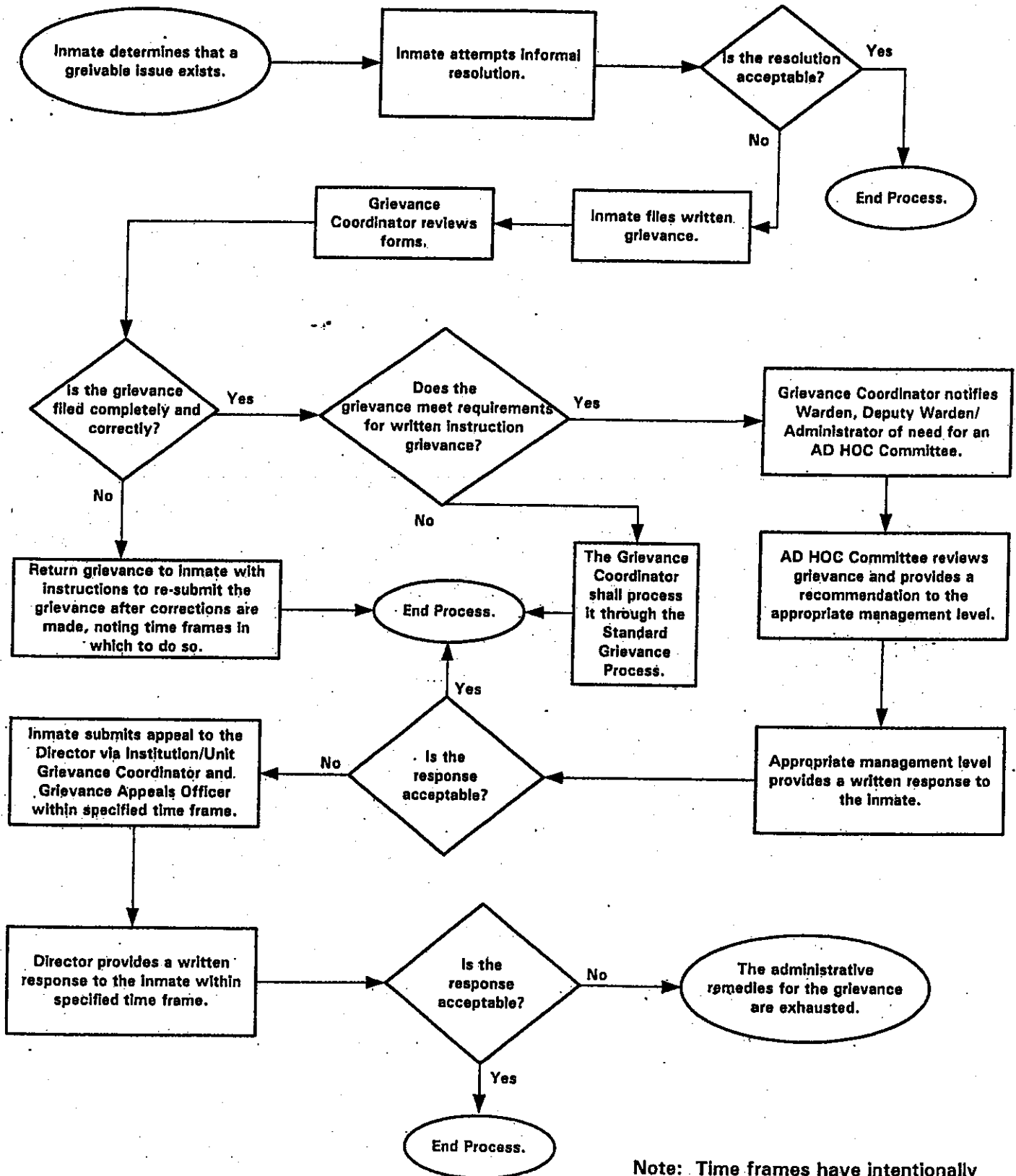
Note: Time frames have intentionally been omitted, refer to the appropriate section within the Department Order.

# Inmate Grievance - Staff Grievance Process



Note: Time frames have intentionally been omitted, refer to the appropriate section within the Department Order.

# Inmate Grievance - Written Instruction Grievance Process



Note: Time frames have intentionally been omitted, refer to the appropriate section within the Department Order.