

# THE 602 APPEALS PROCESS

*This flyer provides general guidelines only-refer to California Code of Regulations, Title 15, section 3084 ( Appeals) and the sections that follow, for more information.*

## INTRODUCTION

The 602 appeals process was enacted as part of California state law for the purpose of giving prisoners a chance to have their grievances resolved by the prison directly. Although the experience of many prisoners is that the 602 process does not work the way it should, there may be good reasons to continue using it: 1) the chance that the prison might help solve the problem; 2) you must exhaust the appeals process in order to sue the prison in federal court (exhaustion means that you used the appeals process and took your appeal all the way to Sacramento); and 3) the more 602s that are filed and taken all the way to Sacramento, the more evidence there is that prisoners are not being treated fairly.

## APPEALS FORM

*Section A: Describe the problem.* Be as clear as possible and explain what happened to you and how it affected you. Example: "During my pregnancy I asked for medical care for abnormal vaginal bleeding. My requests were ignored and my baby died. I'm experiencing nightmares & depression since my baby died."

\*You must file the 602 within 15 days after the problem occurred. **The deadline for your response at every level of the 602 process is 15 days.**

\*Only one problem per 602.

*Section B: Action Requested.* Tell them what you want to happen and stick to it throughout the appeals process. Using the example above, a requested action could be, "I need to participate in grief counseling," or, "I need appropriate medical attention to deal with my nightmares."

\*Make sure your requested action is related to the problem.

## FILING YOUR 602

KEEP COPIES!!!!!!!

You need to show that you've done everything you can to follow the process---without a copy it will be difficult to prove your cooperation.

If you do not have access to a copy machine keep a handwritten copy and include their response to you. At the top of the copy, write: "I do not have access to a

copy machine. This is a handwritten copy of my 602 appeal. I attest under penalty of perjury that all statements made by me on this form are true and an exact duplicate of the statements made by me and by the Dept. of Corrections on the original 602 form". Sign and date the statement.

*Section C: Informal Level.* Submit your appeal to the staff person responsible for the event you are complaining about. They should respond in writing within 10 working days. If your 602 is "lost", destroyed, ignored, then on a new form skip section C and go to section D, Formal Review, and write that you are dissatisfied because the staff person "refused to accept", "destroyed", "didn't return" (or whatever happened) your 602 and you are appealing to the formal level.

\*If the Department is late in responding and has not notified you in writing why they are late and an estimate of when they will respond, note that on your appeal and send it to the next level. For example: "You have failed to respond in a timely manner to level\_\_\_\_, therefore level \_\_\_\_ is deemed denied by operation of law. Advance to the next level."

\*There are some instances where you can skip the informal level. See Title 15 §3084.5(a)(3).

**Protect yourself**--if you are alleging officer misconduct, you must attach a Rights & Responsibilities statement to your 602 [see §3319(d)of Title 15]. Be sure to read Title 15 §3084.1 which provides for criminal penalties for making false statements.

*Sections D & E: First and Second levels of Formal Review.* On the first formal level they have 30 working days to respond. On the second formal level they have 20 working days [30 days if informal level waived under §3084.5(a) (3)].

*Third and Final Level of Formal Review (Director's Level)*

According to Title 15, you should hear from Sacramento within 60 working days of sending your appeal. Sacramento is not required to give you notice of any delay. You may be able to consider your appeal exhausted if you have not received any response from the director after 180 days.

## GROUP APPEALS

Group appeals may be filed when a decision, action or policy will affect all members of a group. Use one appeal form with the name and CDC # of the person who prepared the appeal. Attach a list which contains each prisoner's name, number, signature and housing designation. The person who prepared the appeal is responsible for notifying the group of the department's response. If that person is transferred or released, the response is then directed to the next person on the list.

## EXCEPTION TO REGULAR APPEAL PROCESS (§3084.7)

Emergency appeals can be filed and processed in the shortest practical time when circumstances are such that time limits may result in a threat to your safety or cause other serious and irreparable harm. You submit the appeal directly to the appeals coordinator and include documentation of the circumstances that warrant emergency processing of the appeal. If the appeals coordinator determines the appeal is not an emergency, the appeal will be processed as a regular appeal. If it is determined to be an emergency, the first level is waived and second level review shall be completed within 5 working days. If you are not satisfied with the second level response, you can resubmit the appeal to the coordinator who must telefax the appeal to the chief of inmate appeals, who has 5 working days to complete the third level review.

## OTHER TIPS

- \* Only you can decide whether you should file a 602.
- \* There is no way for us to protect you entirely from retaliation. However, if you fear retaliation but wish to proceed with the 602 process you may want to contact family or other advocates to write letters and call the institution on your behalf.
- \* If you feel you cannot use the 602 process, there is some case law that suggests you can write a letter to prison and Dept. of Corrections officials asking for help and exhaust remedies in that manner. We advise that you use this method only in extreme cases since the law is not clear on this point. It may be a good idea to write these letters even if you file a 602. In any event, protect yourself and make and keep copies.
- \* If it becomes impossible to use the 602 process because the Department does not cooperate, consider keeping a log/diary of the ways the Department obstructed the process. For example: "On 12/12/99, MTA Name refused my request for medical records to document this 602". This log/diary may be considered evidence of exhaustion. Additionally, narratives are

useful to advocates in helping to create change.

\* Remember: Though change may be slow in coming, with perseverance, it will come.

\* It is also a good idea to send copies of your 602 to the following agencies so that others know of your efforts to resolve the situation.

Send copies to:

CDC Ombudsman  
PO Box 942883  
Sacramento, CA 94283-0001

Office of Internal Affairs  
Northern Region: 10834 International Dr., Ste. 210  
Rancho Cordova, CA 95670

Central Region: 5016 California Ave., Ste. 210  
Bakersfield, CA 93309

Southern Region: 9035 Haven Ave., Ste. 105  
Rancho Cucamonga, CA 91730

Office of the Inspector General  
PO Box 348780  
Sacramento, CA 95834-8780

*\*Family members, friends, and advocates can also use the 602 appeals process. Section 3137 (Appeals Related to Mail) covers appeals by persons other than prisoners.*

§3137(c) provides: "Persons other than inmates should address any appeal relating to *department policy* and regulations to the Director of Corrections.

Appeals relating to *facility procedures and practices* should be addressed in writing to the warden, superintendent or regional administrator of the facility where the appeal arises. The warden, superintendent or regional parole administrator shall provide a written response within 15 working days. Appeals that are not satisfactorily resolved at this level may be forwarded to the director who shall provide a written response within 20 working days."  
(Emphasis added)

California Department of Corrections  
Director  
PO Box 942883  
Sacramento, CA 94283-0001

This flyer was written by Cassie Pierson, Staff Attorney, and Elisa Mollick, Legal Intern, at Legal Services for Prisoners with Children. If you have any questions or comments, please contact us at:

Cassie M. Pierson, Staff Attorney  
Legal Services for Prisoners with Children  
1540 Market Street, Suite 490  
San Francisco, CA 94102

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